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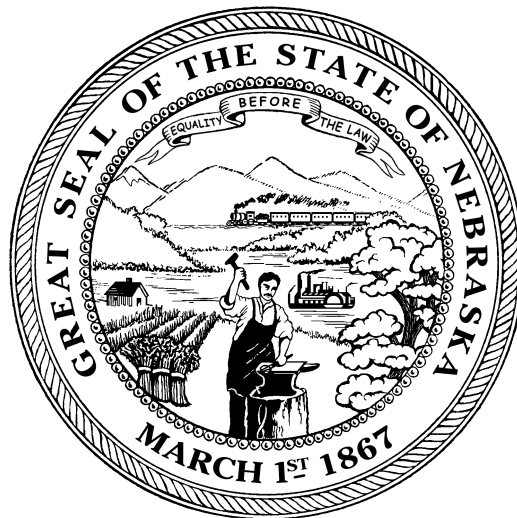


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## REISSUE OF VOLUME 5

### 2024

COMPRISING ALL THE STATUTORY LAWS OF A  
GENERAL NATURE IN FORCE AT DATE OF  
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## **CERTIFICATE OF AUTHENTICATION**

I, Marcia M. McClurg, Revisor of Statutes, do hereby certify that the Reissue of Volume 5 of the Revised Statutes of Nebraska, 2024, contains all of the laws set forth in Chapters 78 to 80, appearing in Volume 5, Revised Statutes of Nebraska, 2014, as amended and supplemented by the One Hundred Fourth Legislature, First Session, 2015, through the One Hundred Eighth Legislature, First Special Session, 2024, of the Nebraska Legislature, in force at the time of publication hereof.

Marcia M. McClurg  
Revisor of Statutes

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(in full)

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# CHAPTER 79

## SCHOOLS

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ARTICLE 1

DEFINITIONS AND CLASSIFICATIONS

Section

- 79-101. Terms, defined.
- 79-102. School districts; classification.
- 79-103. Classification of school districts; how determined.
- 79-104. Classification of school districts; change; Commissioner of Education; duties.

**79-101 Terms, defined.**

For purposes of Chapter 79:

- (1) School district means the territory under the jurisdiction of a single school board authorized by Chapter 79;
- (2) School means a school under the jurisdiction of a school board authorized by Chapter 79;
- (3) Legal voter means a registered voter as defined in section 32-115 who is domiciled in a precinct or ward in which he or she is registered to vote and which precinct or ward lies in whole or in part within the boundaries of a school district for which the registered voter chooses to exercise his or her right to vote at a school district election;
- (4) Prekindergarten programs means all early childhood programs provided for children who have not reached the age of five by the date provided in section 79-214 for kindergarten entrance;
- (5) Elementary grades means grades kindergarten through eight, inclusive;
- (6) High school grades means all grades above the eighth grade;
- (7) School year means (a) for elementary grades other than kindergarten, the time equivalent to at least one thousand thirty-two instructional hours and (b) for high school grades, the time equivalent to at least one thousand eighty instructional hours;
- (8) Instructional hour means a period of time, at least sixty minutes, which is actually used for the instruction of students;
- (9) Teacher means any certified employee who is regularly employed for the instruction of pupils in the public schools;

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

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

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

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

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

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

(16) Community eligibility provision means the alternative to household applications for free and reduced-price meals in high-poverty schools enacted in section 104(a) of the federal Healthy, Hunger-Free Kids Act of 2010, section 11(a)(1) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1759a(a)(1), as such act and section existed on January 1, 2015, and administered by the United States Department of Agriculture; and

(17)(a) Certificate, certificated, or certified, when referring to an individual holding a certificate to teach, administer, or provide special services, also includes an individual who holds a permit issued by the Commissioner of Education pursuant to sections 79-806 to 79-815 or an alternative certificate issued pursuant to section 79-8,145.01.

(b) Certificate, certificated, or certified, when referring to an individual holding a certificate to teach, also includes an individual who is granted a certificate in accordance with the Interstate Teacher Mobility Compact and section 79-816.01.

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

**Source:** Laws 1881, c. 78, subdivision I, § 1, p. 331; R.S.1913, § 6700; C.S.1922, § 6238; C.S.1929, § 79-101; R.S.1943, § 79-101; Laws 1949, c. 256, § 1, p. 690; Laws 1971, LB 802, § 1; Laws 1984, LB 994, § 3; Laws 1988, LB 1197, § 1; Laws 1993, LB 348, § 5; R.S.1943, (1994), § 79-101; Laws 1996, LB 900, § 1; Laws 1997, LB 345, § 5; Laws 1999, LB 813, § 5; Laws 2003, LB 67, § 2; Laws 2010, LB1006, § 1; Laws 2015, LB525, § 2; Laws 2018, LB377, § 9; Laws 2023, LB298, § 5; Laws 2023, LB705, § 54; Laws 2024, LB1329, § 8.

Effective date July 19, 2024.

#### Cross References

Interstate Teacher Mobility Compact, see section 79-1505.

A legal voter is one who is eligible to vote at an election for school district officers. *Harnapp v. Bigelow*, 178 Neb. 440, 133 N.W.2d 611 (1965).

A school district is a unit of local self-government, democratic in form, possessing no rights or powers beyond those conferred

upon it by the terms of the statutes of its creation. *Schulz v. Dixon County*, 134 Neb. 549, 279 N.W. 179 (1938).

Jurisdiction, as applied to taxation, means the power and authority to levy tax upon property within the limits of the school district for school purposes. *Chicago, B. & Q. R.R. Co. v. Cass County*, 51 Neb. 369, 70 N.W. 955 (1897).

**79-102 School districts; classification.**

School districts in this state are classified as follows:

- (1) Class I includes any school district embracing territory having a population of fewer than one thousand five hundred inhabitants that maintains both elementary and high school grades under the direction of a single school board;
- (2) Class II includes any school district embracing territory having a population of one thousand five hundred or more but fewer than five thousand inhabitants that maintains both elementary and high school grades under the direction of a single school board;
- (3) Class III includes any school district embracing territory having a population of five thousand or more but fewer than two hundred thousand inhabitants that maintains both elementary and high school grades under the direction of a single school board;
- (4) Class IV includes any school district embracing territory having a population of two 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) Class V includes any school district whose employees participate in a retirement system established pursuant to the Class V School Employees Retirement Act and which embraces territory having 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 any school district with territory in a city of the metropolitan class created pursuant to the Learning Community Reorganization Act and designated as a Class V school district in the reorganization plan.

**Source:** Laws 1949, c. 256, § 2, p. 691; Laws 1959, c. 379, § 1, p. 1320; Laws 1981, LB 16, § 1; R.S.1943, (1994), § 79-102; Laws 1996, LB 900, § 2; Laws 1997, LB 345, § 6; Laws 1998, LB 629, § 1; Laws 2003, LB 394, § 1; Laws 2005, LB 126, § 8; Laws 2006, LB 1024, § 15; Referendum 2006, No. 422; Laws 2018, LB377, § 10; Laws 2024, LB1329, § 9.  
Effective date July 19, 2024.

**Cross References**

**City of the metropolitan class**, population, see section 14-101.

**City of the primary class**, population, see section 15-101.

**Class V School Employees Retirement Act**, see section 79-978.01.

**Commissioner of Education**, assign number to each district, see section 79-307.

**Learning Community Reorganization Act**, see section 79-4,117.

School districts from and to which land may be transferred under provisions of former section 79-403 are defined and classified in this section. *Klecan v. Schmal*, 196 Neb. 100, 241 N.W.2d 529 (1976).

In proceedings for the transfer of land from one district to another, the advantage or disadvantage of the districts is not the deciding issue. *Friesen v. Clark*, 192 Neb. 227, 220 N.W.2d 12 (1974).

Members of school board act in a representative capacity and not as individuals. *Greer v. Chelewski*, 162 Neb. 450, 76 N.W.2d 438 (1956).

Former article 6 district was classified as Class II district. *Fulk v. School District No. 8 of Lancaster County*, 155 Neb. 630, 53 N.W.2d 56 (1952).

District involved was a Class III district. *State ex rel. Shiman v. Board of Education*, 152 Neb. 644, 42 N.W.2d 168 (1950).

**79-103 Classification of school districts; how determined.**

The number of inhabitants in any school district shall, for the purpose of determining the class to which such district belongs, be the number of inhabitants ascertained by the most recent United States census or by a certified census taken of the district at the direction of the school board or board of education of the school district and approved by the State Board of Education. The school board or board of education of any school district is authorized to contract for a special United States Census of the district if the board determines that such a census is necessary.

**Source:** Laws 1949, c. 256, § 5, p. 692; Laws 1955, c. 315, § 1, p. 971; Laws 1971, LB 212, § 1; R.S.1943, (1994), § 79-105; Laws 1996, LB 900, § 3.

**79-104 Classification of school districts; change; Commissioner of Education; duties.**

(1)(a) Whenever any Class I, II, III, or IV school district attains the number of inhabitants which requires its reclassification as a Class II, III, IV, or V school district, respectively, the Commissioner of Education shall reclassify such district as a district of the next higher class.

(b) Any reclassification pursuant to subdivision (1)(a) of this section shall become effective at the beginning of the next fiscal year after the order of the commissioner.

(2) On January 1, 2025, the commissioner shall reclassify any school district to the classification required by the changes made to section 79-102 by Laws 2024, LB1329, which reclassification shall be effective immediately.

(3) Within fifteen days after the reclassification of any school district pursuant to subsection (1) or (2) of this section, the commissioner shall notify the county clerk or election commissioner, of the county in which the greatest number of legal voters in the school district reside, of such change in classification and the effective date of such change.

**Source:** Laws 1949, c. 256, § 6, p. 692; Laws 1971, LB 212, § 2; Laws 1981, LB 446, § 34; R.S.1943, (1994), § 79-106; Laws 1996, LB 900, § 4; Laws 1997, LB 345, § 7; Laws 2018, LB377, § 11; Laws 2024, LB1329, § 10.  
Effective date July 19, 2024.

There is no mandatory change to a lesser-numbered school district as a result of a decrease in population. *Quiring v. School Dist. No. 91 of Hamilton and York Counties*, 205 Neb. 9, 285 N.W.2d 834 (1979).

**ARTICLE 2**

**PROVISIONS RELATING TO STUDENTS**

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79-227.	Repealed. Laws 1997, LB 347, § 59.
79-228.	Repealed. Laws 1997, LB 347, § 59.
79-229.	Repealed. Laws 1997, LB 347, § 59.
79-230.	Repealed. Laws 1997, LB 347, § 59.
79-231.	Repealed. Laws 1997, LB 347, § 59.
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- (u) MILITARY RECRUITERS ACCESS TO STUDENTS
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  - 79-2,161. Right to repeat grade; reasons; procedure.

(a) COMPULSORY EDUCATION

**79-201 Compulsory education; attendance required; violation; penalty; exceptions; reports required.**

(1) For purposes of this section, a child is of mandatory attendance age if the child (a) will reach six years of age prior to January 1 of the then-current school year and (b) has not reached eighteen years of age.

(2)(a) Except as provided in subsection (3) of this section, every person residing in a school district within the State of Nebraska who has legal or actual charge or control of any child who is of mandatory attendance age or is enrolled in a public school shall cause such child to enroll in, if such child is not enrolled, and attend regularly a public, private, denominational, or parochial day school which meets the requirements for legal operation prescribed in Chapter 79, or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements, each day that such school is open and in session, except when excused by school authorities or when mental or physical illness or severe weather conditions make attendance impossible or impracticable.

(b) A violation of this subsection is a Class III misdemeanor.

(3) Subsection (2) of this section does not apply in the case of any child who:

(a) Has obtained a high school diploma by meeting the graduation requirements established in section 79-729;

(b) Has completed the program of instruction offered by a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements;

(c) Has reached sixteen years of age and has been withdrawn from school pursuant to section 79-202;

(d)(i) Will reach six years of age prior to January 1 of the then-current school year, but will not reach seven years of age prior to January 1 of such school year, (ii) such child's parent or guardian has signed an affidavit stating that the child is participating in an education program that the parent or guardian believes will prepare the child to enter grade one for the following school year, and (iii) such affidavit has been filed by the parent or guardian with the school district in which the child resides;

(e)(i) Will reach six years of age prior to January 1 of the then-current school year but has not reached seven years of age, (ii) such child's parent or guardian has signed an affidavit stating that the parent or guardian intends for the child to participate in a school which has elected or will elect pursuant to section 79-1601 not to meet accreditation or approval requirements and the parent or guardian intends to provide the Commissioner of Education with a statement pursuant to subsection (3) of section 79-1601 on or before the child's seventh birthday, and (iii) such affidavit has been filed by the parent or guardian with the school district in which the child resides; or

(f) Will not reach six years of age prior to January 1 of the then-current school year and such child was enrolled in a public school and has discontinued the enrollment according to the policy of the school board adopted pursuant to subsection (4) of this section.

(4) The board shall adopt policies allowing discontinuation of the enrollment of students who will not reach six years of age prior to January 1 of the then-current school year and specifying the procedures therefor.

(5) Each school district that is a member of a learning community shall report to the learning community coordinating council on or before September 1 of each year for the immediately preceding school year the following information:

(a) All reports of violations of this section made to the attendance officer of any school in the district pursuant to section 79-209;

(b) The results of all investigations conducted pursuant to section 79-209, including the attendance record that is the subject of the investigation and a list of services rendered in the case;

(c) The district's policy on excessive absenteeism; and

(d) Records of all notices served and reports filed pursuant to section 79-209 and the district's policy on excessive absenteeism.

**Source:** Laws 1901, c. 70, § 1, p. 454; Laws 1903, c. 95, § 1, p. 549; Laws 1905, c. 140, § 1, p. 575; Laws 1907, c. 131, § 1, p. 430; R.S.1913, § 6924; Laws 1919, c. 155, § 1, p. 346; Laws 1921, c. 53, § 1(a), p. 227; C.S.1922, § 6508a; Laws 1929, c. 87, § 1, p. 340; C.S.1929, § 79-1901; R.S.1943, § 79-1901; Laws 1949, c. 256, § 7, p. 692; Laws 1953, c. 291, § 1, p. 988; Laws 1959, c. 380, § 1, p. 1322; Laws 1971, LB 211, § 1; Laws 1971, LB 582, § 1; Laws 1984, LB 928, § 1; Laws 1984, LB 994, § 4; R.S.1943, (1994), § 79-201; Laws 1996, LB 900, § 5; Laws 1999, LB 152, § 1; Laws 2004, LB 868, § 1; Laws 2008, LB1154, § 6; Laws 2010, LB1071, § 2; Laws 2012, LB996, § 1; Laws 2024, LB1029, § 1; Laws 2024, LB1329, § 11.

Effective date July 19, 2024.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB1029, section 1, with LB1329, section 11, to reflect all amendments.

Subsection (2) of this section does not make the start of the public school calendar year the default start date for other schools and does not provide that a child must attend a legally recognized school each day of the public school year. Nor does it require parents to enroll their child in a legally recognized school until they obtain the State's recognition of an exempt homeschool. *State v. Thacker*, 286 Neb. 16, 834 N.W.2d 597 (2013).

Under subsection (2) of this section, an exempt school's ability to complete the minimum instruction hours is the only timing requirement imposed upon an exempt school's calendar year. *State v. Thacker*, 286 Neb. 16, 834 N.W.2d 597 (2013).

Where a juvenile is adjudicated solely on the basis of habitual truancy from school under subdivision (3)(b) of section 43-247 and the status of truancy is subsequently terminated by the lawful execution of a parental release authorizing discontinuation of school pursuant to subdivision (3)(d) of this section, a

juvenile court may terminate its jurisdiction without a finding that such termination is in the best interests of the juvenile. In re Interest of Kevin K., 274 Neb. 678, 742 N.W.2d 767 (2007).

The state, having a high responsibility for the education of its citizens, has the power to impose reasonable regulations for the control and duration of basic education. Parents have a right to send their children to private schools but do not have the right to be completely unfettered by reasonable government regulations as to the quality of the education furnished and the maintenance of minimum standards. State ex rel. Douglas v. Faith Baptist Church of Louisville, 207 Neb. 802, 301 N.W.2d 571 (1981).

Violation of this law is not, in itself, evidence of neglect under section 43-202(2)(c), R.R.S.1943. State v. Rice, 204 Neb. 732, 285 N.W.2d 223 (1979).

This section did not operate to violate constitutional right of parents to educate their children in accordance with the tenets

of their religious faith. Meyerkorth v. State, 173 Neb. 889, 115 N.W.2d 585 (1962).

This section has no application to physically or mentally handicapped child attending special school. Schutte v. Decker, 164 Neb. 582, 83 N.W.2d 69 (1957).

Compulsory education statutes and juvenile code statutes regarding the neglect of children generally do not pertain to the same subject matter and should not be construed in pari materia. In re Interest of Laticia S., 21 Neb. App. 921, 844 N.W.2d 841 (2014).

Subdivision (3)(a) of section 43-247 establishes the juvenile court's jurisdiction over a minor child, while this section and section 79-210 make the minor child's parents or legal guardians culpable for the child's truancy. The county attorney is free to decide whether to proceed utilizing the juvenile code or the compulsory education laws. In re Interest of Laticia S., 21 Neb. App. 921, 844 N.W.2d 841 (2014).

**79-202 Compulsory attendance; withdrawal of child from school; exempt from mandatory attendance; exit interview; withdrawal form; validity; child at least sixteen years of age; other enrollment options; later enrollment; effect; Commissioner of Education; duties.**

(1) A person who has legal or actual charge or control of a child who is at least sixteen years of age but less than eighteen years of age may withdraw such child from school before graduation and be exempt from the mandatory attendance requirements of section 79-201 if an exit interview is conducted and the withdrawal form is signed as required by subsections (2) through (5) of this section for a child enrolled in a public, private, denominational, or parochial school or if a signed release form is filed with the Commissioner of Education as required by subsection (6) of this section for a child enrolled in a school that elects pursuant to section 79-1601 not to meet accreditation or approval requirements.

(2) Upon the written request of any person who has legal or actual charge or control of a child who is at least sixteen years of age but less than eighteen years of age, the superintendent of a school district or the superintendent's designee shall conduct an exit interview if the child (a) is enrolled in a school operated by the school district or (b) resides in the school district and is enrolled in a private, denominational, or parochial school.

(3) The superintendent or the superintendent's designee shall set the time and place for the exit interview which shall be personally attended by: (a) The child, unless the withdrawal is being requested due to an illness of the child making attendance at the exit interview impossible or impracticable; (b) the person who has legal or actual charge or control of the child who requested the exit interview; (c) the superintendent or the superintendent's designee; (d) the child's principal or the principal's designee if the child at the time of the exit interview is enrolled in a school operated by the school district; and (e) any other person requested by any of the required parties who agrees to attend the exit interview and is available at the time designated for the exit interview which may include, but need not be limited to, other school district personnel or the child's principal or such principal's designee if the child is enrolled in a private, denominational, or parochial school.

(4) At the exit interview, the person making the written request pursuant to subsection (2) of this section shall present evidence that (a) the person has legal or actual charge or control of the child and (b) the child would be withdrawing due to either (i) financial hardships requiring the child to be employed to

support the child's family or one or more dependents of the child or (ii) an illness of the child making attendance impossible or impracticable. The superintendent or superintendent's designee shall identify all known alternative educational opportunities, including vocational courses of study, that are available to the child in the school district and how withdrawing from school is likely to reduce potential future earnings for the child and increase the likelihood of the child being unemployed in the future. Any other relevant information may be presented and discussed by any of the parties in attendance.

(5)(a) At the conclusion of the exit interview, the person making the written request pursuant to subsection (2) of this section may sign the withdrawal form provided by the school district agreeing to the withdrawal of the child or may rescind the written request for the withdrawal.

(b) Any withdrawal form signed by the person making the written request pursuant to subsection (2) of this section shall be valid only if (i) the child signs the form unless the withdrawal is being requested due to an illness of the child making attendance at the exit interview impossible or impracticable and (ii) the superintendent or superintendent's designee signs the form acknowledging that the interview was held, the required information was provided and discussed at the interview, and, in the opinion of the superintendent or the superintendent's designee, the person making the written request pursuant to subsection (2) of this section does in fact have legal or actual charge or control of the child and the child is experiencing either (A) financial hardships requiring the child to be employed to support the child's family or one or more dependents of the child or (B) an illness making attendance impossible or impracticable.

(6) A person who has legal or actual charge or control of the child who is at least sixteen years of age but less than eighteen years of age may withdraw such a child before graduation and be exempt from the mandatory attendance requirements of section 79-201 if such child has been enrolled in a school that elects pursuant to section 79-1601 not to meet the accreditation or approval requirements by filing with the State Department of Education a signed release on a form prescribed by the Commissioner of Education.

(7) A child who has been withdrawn from school pursuant to this section may enroll in a school district at a later date as provided in section 79-215 or may enroll in a private, denominational, or parochial school or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements. Any such enrollment shall void the withdrawal form previously entered, and the provisions of sections 79-201 to 79-210 shall apply to the child.

(8) The commissioner shall prescribe the required form for withdrawals pursuant to this section and determine and direct either that (a) withdrawal forms of school districts for any child who is withdrawn from school pursuant to this section and subdivision (3)(c) of section 79-201 shall be provided annually to the department or (b) data regarding such students shall be collected under subsection (2) of section 79-528.

**Source:** Laws 2012, LB996, § 2; Laws 2021, LB528, § 21.

### **79-203 Compulsory attendance; necessarily employed children; permit.**

In case the services or earnings of a child are necessary for his or her own support or the support of those actually dependent upon him or her and the child is fourteen years of age or more and not more than sixteen years of age



and has completed the work of the eighth grade, the person having legal or actual charge of such child may apply to the superintendent of the school district in which the child resides or a person designated in writing by the superintendent. The superintendent or designee may, in his or her discretion, issue a permit allowing such child to be employed.

**Source:** Laws 1921, c. 52, § 1(c), p. 227; C.S.1922, § 6508b; Laws 1927, c. 84, § 1, p. 251; Laws 1929, c. 92, § 1, p. 348; C.S.1929, § 79-1902; Laws 1931, c. 149, § 1, p. 405; Laws 1941, c. 163, § 1, p. 650; C.S.Supp.,1941, § 79-1902; R.S.1943, § 79-1905; Laws 1949, c. 256, § 11, p. 694; R.S.1943, (1994), § 79-205; Laws 1996, LB 900, § 7; Laws 1997, LB 347, § 3; Laws 1999, LB 272, § 24; Laws 2018, LB377, § 12.

#### Cross References

For provisions relating to child labor, see Chapter 48, article 3.

### **79-204 Compulsory attendance; necessarily employed children; continuation schools; attendance required.**

All children who are fourteen years of age or more and not more than sixteen years of age, who reside in a school district in which a part-time continuation school is maintained by authority of the public school district and who are granted permits to be employed under section 79-203, shall attend a public, private, denominational, or parochial part-time continuation school eight hours of each week during the entire school year.

**Source:** Laws 1921, c. 53, § 1(c), p. 227; C.S.1922, § 6508b; Laws 1927, c. 84, § 1, p. 251; Laws 1929, c. 92, § 1, p. 348; C.S.1929, § 79-1902; Laws 1931, c. 149, § 1, p. 405; Laws 1941, c. 163, § 1, p. 650; C.S.Supp.,1941, § 79-1902; R.S.1943, § 79-1906; Laws 1949, c. 256, § 12, p. 694; R.S.1943, (1994), § 79-206; Laws 1996, LB 900, § 8.

### **79-205 Compulsory attendance; records required.**

Each school district and each private, denominational, or parochial school shall keep a record showing the name, age, and address of each child enrolled. Each teacher in such school district or school shall record the number of days each pupil was present and the number of days absent and the cause of absence. On the third day on which a public, private, denominational, and parochial school is in session at the beginning of each school year, each superintendent of a school district and each administrator of a private, denominational, or parochial school shall compile a list of the pupils enrolled in such district or school with the age, grade, and address of each pupil.

**Source:** Laws 1901, c. 70, § 1, p. 454; Laws 1903, c. 95, § 1, p. 549; Laws 1905, c. 140, § 1, p. 575; Laws 1907, c. 131, § 1, p. 430; R.S.1913, § 6924; Laws 1919, c. 155, § 1, p. 346; Laws 1921, c. 53, § 1(f), p. 228; C.S.1922, § 6508d; C.S.1929, § 79-1904; R.S. 1943, § 79-1911; Laws 1949, c. 256, § 13, p. 694; Laws 1971, LB 210, § 2; R.S.1943, (1994), § 79-207; Laws 1996, LB 900, § 9; Laws 1999, LB 272, § 25; Laws 2024, LB1329, § 12.  
Effective date July 19, 2024.

The state, having a high responsibility for the education of its citizens, has the power to impose reasonable regulations for the control and duration of basic education. Parents have a right to send their children to private schools but do not have the right to be completely unfettered by reasonable government regula-

tions as to the quality of the education furnished and the maintenance of minimum standards. State ex rel. Douglas v. Faith Baptist Church of Louisville, 207 Neb. 802, 301 N.W.2d 571 (1981).

**79-206 Compulsory attendance; nonattendance lists; transmission to enforcement officers.**

Each superintendent of a school district, using the list specified in section 79-205, shall (1) compare the names of the children enrolled with the last census report on file in his or her office from such district, (2) prepare a list of all children resident in such district under his or her jurisdiction who are not attending school as provided in section 79-201, and (3) transmit the list to the officer or officers in such district whose duty it is to enforce the provisions of such section.

**Source:** Laws 1901, c. 70, § 1, p. 454; Laws 1903, c. 95, § 1, p. 549; Laws 1905, c. 140, § 1, p. 575; Laws 1907, c. 131, § 1, p. 430; R.S.1913, § 6924; Laws 1919, c. 155, § 1, p. 346; Laws 1921, c. 53, § 1(f), p. 228; C.S.1922, § 6508d; C.S.1929, § 79-1904; R.S. 1943, § 79-1911; Laws 1949, c. 256, § 14, p. 694; R.S.1943, (1994), § 79-208; Laws 1996, LB 900, § 10; Laws 1999, LB 272, § 26; Laws 2024, LB1329, § 13.  
Effective date July 19, 2024.

**79-207 Compulsory attendance; entry or withdrawal of student; teachers' attendance reports.**

Whenever any child enters or withdraws from any school after the third day in which school is in session, each teacher shall transmit at once the name of such child to the superintendent and the superintendent shall use such information in whatever way he or she deems necessary for the purpose of enforcing section 79-201. At the end of each week, each teacher shall report all absences and the cause of absence to the proper superintendent. At the close of each period, each teacher shall transmit to the superintendent a report showing (1) the name, age, and address of each child enrolled, (2) the number of half days each child was absent, (3) the number enrolled and the number attending on the last day of the period, and (4) the average daily attendance for the period. The provisions of this section requiring reports from each teacher shall not apply to individual teachers in schools employing more than one teacher but shall in such case apply to the head teacher, superintendent, or administrator, who shall obtain the required information from the teachers under his or her supervision or control. All reports and lists required in this section shall be as prescribed by the Commissioner of Education.

**Source:** Laws 1921, c. 53, § 1(g), p. 229; C.S.1922, § 6508e; C.S.1929, § 79-1905; R.S.1943, § 79-1912; Laws 1949, c. 256, § 15, p. 695; Laws 1959, c. 382, § 1, p. 1324; R.S.1943, (1994), § 79-209; Laws 1996, LB 900, § 11; Laws 2024, LB1329, § 14.  
Effective date July 19, 2024.

**79-208 Compulsory attendance; attendance officers; powers and duties; compensation.**

School boards shall appoint one or more attendance officers who shall be vested with police powers and shall enforce the provisions of section 79-201 in

the school districts for which they act. Attendance officers shall be compensated for their services in such sums as are determined by the school board, to be paid out of the general school fund of the district.

**Source:** Laws 1901, c. 70, § 2, p. 456; Laws 1903, c. 95, § 2, p. 552; Laws 1905, c. 141, § 1, p. 578; Laws 1909, c. 130, § 1, p. 474; R.S.1913, § 6925; Laws 1919, c. 155, § 9, p. 350; Laws 1921, c. 53, § 2, p. 231; C.S.1922, § 6509; C.S.1929, § 79-1914; R.S.1943, § 79-1921; Laws 1949, c. 256, § 16, p. 695; R.S.1943, (1994), § 79-210; Laws 1996, LB 900, § 12; Laws 1999, LB 272, § 27.

Cross References

For provisions for attendance officers reporting illegal employment to Department of Labor and county attorneys, see section 48-312.

**79-209 Compulsory attendance; nonattendance; school district; duties; collaborative plan; considerations; referral to county attorney; notice.**

(1) In all school districts in this state, any superintendent, principal, teacher, or member of the school board who knows of any violation of subsection (2) of section 79-201 shall within three days report such violation to the attendance officer of the school, who shall immediately investigate the case. When of his or her personal knowledge or by report or complaint from any resident of the district, the attendance officer believes that there is a violation of subsection (2) of section 79-201, the attendance officer shall immediately investigate such alleged violation.

(2) All school boards shall have a written policy on attendance developed and annually reviewed in collaboration with the county attorney of the county in which the principal office of the school district is located. The policy shall include a provision indicating how the school district will handle cases in which excessive absences are due to illness. The policy shall also state the circumstances and number of absences or the hourly equivalent upon which the school shall render all services to address barriers to attendance. Such services shall be provided upon twenty days of absence, and shall include, but not be limited to:

(a) Written communication by school officials with the person or persons who have legal or actual charge or control of any child; and

(b) One or more meetings between, at a minimum, a school attendance officer, a school social worker, or a school administrator or his or her designee, the person who has legal or actual charge or control of the child, the person who is responsible for making educational decisions on behalf of the child if that person is someone other than the person who has legal or actual charge or control of the child, and the child, when appropriate, to address the barriers to attendance. The result of the meeting or meetings shall be to develop a collaborative plan to reduce barriers identified to improve regular attendance. The plan shall include, if agreed to by the person who is responsible for making educational decisions on behalf of the child, an educational evaluation to determine whether any intellectual, academic, physical, or social-emotional barriers are contributing factors to the lack of attendance. The plan shall also consider, but not be limited to:

- (i) The physical, mental, or behavioral health of the child;
- (ii) Educational counseling;

- (iii) Referral to community agencies for economic services;
- (iv) Family or individual counseling;
- (v) Assisting the family in working with other community services; and
- (vi) Referral to restorative justice practices or services.

(3) The school may report to the county attorney of the county in which the person resides when the school has documented the efforts it has made as required by subsection (2) of this section that the collaborative plan to reduce barriers identified to improve regular attendance has not been successful and that the child has been absent more than twenty days per school year. The school shall notify the child's family in writing prior to referring the child to the county attorney. Failure by the school to document the efforts required by subsection (2) of this section is a defense to prosecution under section 79-201 and to adjudication under subdivision (3)(a) or (3)(b) of section 43-247 based upon such absences. Illness that makes attendance impossible or impracticable shall not be the basis for referral to the county attorney.

(4) Nothing in this section shall preclude a county attorney from being involved at any stage in the process to address excessive absenteeism.

**Source:** Laws 1901, c. 70, § 2, p. 456; Laws 1903, c. 95, § 2, p. 552; Laws 1905, c. 141, § 1, p. 578; Laws 1909, c. 130, § 1, p. 474; R.S.1913, § 6925; Laws 1919, c. 155, § 9, p. 350; Laws 1921, c. 53, § 2, p. 231; C.S.1922, § 6509; C.S.1929, § 79-1914; R.S.1943, § 79-1922; Laws 1949, c. 256, § 17, p. 696; Laws 1986, LB 528, § 8; Laws 1994, LB 1250, § 5; R.S.1943, (1994), § 79-211; Laws 1996, LB 900, § 13; Laws 1998, Spec. Sess., LB 1, § 6; Laws 1999, LB 272, § 28; Laws 2010, LB800, § 35; Laws 2011, LB463, § 19; Laws 2012, LB933, § 1; Laws 2014, LB464, § 34; Laws 2019, LB595, § 39; Laws 2020, LB751, § 1; Laws 2024, LB1329, § 15.

Effective date July 19, 2024.

The plain language of this section does not provide that a parent's absence at the collaborative plan meeting is a defense to adjudication. In re Interest of Reality W., 302 Neb. 878, 925 N.W.2d 355 (2019).

The school's failure to document the efforts required by subsection (3) of this section is a defense to adjudication for habitual truancy. In re Interest of Reality W., 302 Neb. 878, 925 N.W.2d 355 (2019).

Under the former law, subsection (3) of this section permitted a school attendance officer to make a report to the county attorney if a child is absent more than 20 days per year or the hourly equivalent, even if all of the absences are excused due to illness or otherwise. It mandated such a report if the child exceeds the 20-day absence limitation and any of such absences are not excused. In re Interest of Samantha C., 287 Neb. 644, 843 N.W.2d 665 (2014).

Under the former law, this section had no effect upon the juvenile court's exclusive and original jurisdiction over juveniles found to be within the meaning of section 43-247(3)(b). In re Interest of Samantha C., 287 Neb. 644, 843 N.W.2d 665 (2014).

Absence of a guardian from a collaborative plan meeting is not an absolute defense in a truancy proceeding where the school documented sufficient efforts to obtain the guardian's presence. In re Interest of Cole J., 26 Neb. App. 951, 925 N.W.2d 365 (2019).

The school's duty to provide services in an attempt to address excessive absenteeism comes from this section, relating to compulsory attendance and the possibility of a parent's being subjected to a criminal sanction. The school has no duty to provide reasonable efforts before an adjudication under subdivision (3)(a) of section 43-247 of the juvenile code. In re Interest of Laticia S., 21 Neb. App. 921, 844 N.W.2d 841 (2014).

### 79-210 Compulsory attendance; rules and regulations.

The State Board of Education may adopt and promulgate rules and regulations to carry out sections 79-201 to 79-209.

**Source:** Laws 1951, c. 276, § 1, p. 928; Laws 1977, LB 39, § 247; R.S.1943, (1994), § 79-216; Laws 1996, LB 900, § 14; Laws 2024, LB1329, § 16.

Effective date July 19, 2024.

The fact that conduct is subject to the criminal penalties under these sections does not proscribe granting of injunctive relief. *State ex rel. Douglas v. Bigelow*, 214 Neb. 464, 334 N.W.2d 444 (1983).

The provision for penal sanctions in the event of violations of the various statutory provisions relating to compulsory education and operation of private, denominational, and parochial schools does not foreclose the possibility of injunctive relief.

*State ex rel. Douglas v. Faith Baptist Church of Louisville*, 207 Neb. 802, 301 N.W.2d 571 (1981).

Subdivision (3)(a) of section 43-247 establishes the juvenile court's jurisdiction over a minor child, while section 79-201 and this section make the minor child's parents or legal guardians culpable for the child's truancy. The county attorney is free to decide whether to proceed utilizing the juvenile code or the compulsory education laws. *In re Interest of Laticia S.*, 21 Neb. App. 921, 844 N.W.2d 841 (2014).

(b) MINIMUM SCHOOL TERM

**79-211 Minimum school term.**

The school term shall not be less than (1) one thousand thirty-two instructional hours for elementary grades and (2) one thousand eighty instructional hours for high school grades in any public school district or private, denominational, or parochial school. If any district which receives twenty percent or more of its total receipts for general fund purposes from federal sources fails to actually receive receipts anticipated at the time of the adoption of the school budget from taxes, state funds, federal funds, tuition, or other sources, the school board or board of education of such district may, at any time during the school year, elect to close all or part of its schools.

**Source:** Laws 1996, LB 900, § 15.

**79-212 Kindergarten program; minimum hours.**

The school board or board of education of any school district offering a kindergarten program shall provide a program of at least four hundred clock hours each school year.

**Source:** Laws 1967, c. 520, § 1, p. 1742; Laws 1977, LB 430, § 1; Laws 1978, LB 596, § 2; R.S.1943, (1981), § 79-549; Laws 1985, LB 633, § 4; R.S.1943, (1994), § 79-201.10; Laws 1996, LB 900, § 16.

**Cross References**

**Kindergarten**, program required, when, see section 79-728.

**79-213 School; failure to maintain; loss of state funds; exceptions.**

No school district shall receive any portion of state funds pursuant to the Tax Equity and Educational Opportunities Support Act unless school has been actually taught in the district by a legally certificated teacher for the length of time required by law or unless the pupils residing in the district have attended school in another district for the length of time required by law. At the discretion of the State Board of Education, the closing of a school shall not prevent a district from being accredited or receiving its proper share of state funds when epidemic sickness or severe storm conditions prevail to such an extent that the school board in any district deems it advisable to close any or all schools within the district or when the destruction of the schoolhouse makes it impossible to continue the school. Such sickness, storm conditions, or destruction of the schoolhouse shall be sworn to by the secretary of the school board and the oath filed with the State Board of Education if the school board of the school district is proposing to offer fewer hours than required by law.

**Source:** Laws 1881, c. 78, subdivision II, § 14, p. 341; Laws 1883, c. 72, § 3, p. 290; Laws 1889, c. 78, § 7, p. 544; Laws 1903, c. 85, § 2, p. 535; Laws 1913, c. 57, § 1, p. 168; R.S.1913, § 6745; Laws

1915, c. 116, § 1, p. 266; C.S.1922, § 6286; Laws 1927, c. 87, § 1, p. 255; C.S.1929, § 79-218; Laws 1933, c. 138, § 1, p. 545; Laws 1935, c. 168, § 1, p. 619; Laws 1939, c. 113, § 1, p. 488; C.S.Supp.,1941, § 79-218; R.S.1943, § 79-224; Laws 1949, c. 256, § 109, p. 728; Laws 1971, LB 227, § 1; Laws 1990, LB 1090, § 8; Laws 1990, LB 1059, § 37; R.S.1943, (1994), § 79-470; Laws 1996, LB 900, § 17; Laws 1998, Spec. Sess., LB 1, § 7.

Cross References

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

(c) ADMISSION REQUIREMENTS

**79-214 Admission of children; kindergarten; age; evidence of physical examination; visual evaluation; when; exception.**

(1)(a) Except as provided in subdivision (1)(b) of this section, the school board of any school district shall not admit any child into the kindergarten of any school of such school district unless such child has reached the age of five years on or before July 31 of the calendar year in which the school year for which the child is seeking admission begins.

(b) The board shall admit a child who will reach the age of five years on or after August 1 and on or before October 15 of such school year if the parent or guardian requests such entrance and provides an affidavit stating that (i) the child attended kindergarten in another jurisdiction in the current school year, (ii) the family anticipates relocation to another jurisdiction that would allow admission within the current year, or (iii) the child is capable of carrying the work of kindergarten which can be demonstrated through a recognized assessment procedure approved by the board. Each school board shall, for purposes of this subdivision, approve and make available a recognized assessment procedure for determining if a child is capable of carrying the work of kindergarten. The school board shall update approved procedures as the board deems appropriate.

(2) The board shall comply with the requirements of subsection (2) of section 43-2007 and shall require evidence of: (a) A physical examination by a physician, a physician assistant, or an advanced practice registered nurse, practicing under and in accordance with his or her respective certification act, within six months prior to the entrance of a child into the beginner grade and the seventh grade or, in the case of a transfer from out of state, to any other grade of the local school; and (b) a visual evaluation by a physician, a physician assistant, an advanced practice registered nurse, or an optometrist within six months prior to the entrance of a child into the beginner grade or, in the case of a transfer from out of state, to any other grade of the local school, which consists of testing for amblyopia, strabismus, and internal and external eye health, with testing sufficient to determine visual acuity, except that no such physical examination or visual evaluation shall be required of any child whose parent or guardian objects in writing. The cost of such physical examination and visual evaluation shall be borne by the parent or guardian of each child who is examined.

**Source:** Laws 1931, c. 139, § 1, p. 385; C.S.Supp.,1941, § 79-412; R.S. 1943, § 79-414; Laws 1949, c. 258, § 1, p. 869; Laws 1949, c. 256, § 83, p. 720; Laws 1965, c. 519, § 1, p. 1644; Laws 1967, c.

532, § 1, p. 1766; Laws 1973, LB 403, § 20; Laws 1979, LB 59, § 1; Laws 1986, LB 68, § 2; Laws 1987, LB 367, § 66; Laws 1988, LB 1013, § 4; Laws 1991, LB 836, § 33; Laws 1993, LB 348, § 18; Laws 1995, LB 214, § 1; Laws 1995, LB 401, § 42; R.S.Supp.,1995, § 79-444; Laws 1996, LB 900, § 18; Laws 1998, LB 1229, § 2; Laws 2000, LB 1115, § 87; Laws 2001, LB 797, § 4; Laws 2005, LB 114, § 1; Laws 2005, LB 256, § 96; Laws 2010, LB1006, § 2; Laws 2013, LB410, § 2.

This section deals with the subject of minimum age require- State ex rel. Shineman v. Board of Education, 152 Neb. 644, 42  
ments at which pupils may enter kindergarten and first grade. N.W.2d 168 (1950).

**79-215 Students; admission; tuition; persons exempt; department; duties.**

(1) Except as otherwise provided in this section, a student is a resident of the school district where he or she resides and shall be admitted to any such school district upon request without charge.

(2) A school board shall admit a student upon request without charge if at least one of the student’s parents resides in the school district.

(3) A school board shall admit any homeless student upon request without charge if the district is the district in which the student (a) is currently located, (b) attended when permanently housed, or (c) was last enrolled.

(4) A school board may allow a student whose residency in the district ceases during a school year to continue attending school in such district for the remainder of that school year.

(5) A school board may admit nonresident students to the school district pursuant to a contract with the district where the student is a resident and shall collect tuition pursuant to the contract.

(6) A school board may admit nonresident students to the school district pursuant to the enrollment option program as authorized by sections 79-232 to 79-246, and such admission shall be without charge.

(7) In order to carry out the provisions of section 79-2201, a school board shall permit children of military families to enroll preliminarily in a school district if a parent presents evidence of military orders that the military family will be stationed in this state during the current or following school year. A student of a military family shall be admitted to the school district without charge upon arrival in Nebraska if the requirements of this section are met.

(8) A school board may admit a student who is a resident of another state to the school district and collect tuition in advance at a rate determined by the school board.

(9) When a student as a ward of the state or as a ward of any court (a) has been placed in a school district other than the district in which he or she resided at the time he or she became a ward and such ward does not reside in a foster family home licensed or approved by the Department of Health and Human Services or a foster home maintained or used pursuant to section 83-108.04 or (b) has been placed in any institution which maintains a special education program which has been approved by the State Department of Education and such institution is not owned or operated by the district in which he or she resided at the time he or she became a ward, the cost of his or her education and the required transportation costs associated with the student’s education shall be paid by the state, but not in advance, to the receiving

school district or approved institution under rules and regulations prescribed by the Department of Health and Human Services and the student shall remain a resident of the district in which he or she resided at the time he or she became a ward. Any student who is a ward of the state or a ward of any court who resides in a foster family home licensed or approved by the Department of Health and Human Services or a foster home maintained or used pursuant to section 83-108.04 shall be deemed a resident of the district in which he or she resided at the time he or she became a foster child, unless it is determined under section 43-1311 or 43-1312 that he or she will not attend such district in which case he or she shall be deemed a resident of the district in which the foster family home or foster home is located.

(10)(a) When a student is not a ward of the state or a ward of any court and is residing in a residential setting located in Nebraska for reasons other than to receive an education and the residential setting is operated by a service provider which is certified or licensed by the Department of Health and Human Services or is enrolled in the medical assistance program established pursuant to the Medical Assistance Act and Title XIX or XXI of the federal Social Security Act, as amended, the student shall remain a resident of the district in which he or she resided immediately prior to residing in such residential setting. The resident district for a student who is not a ward of the state or a ward of any court does not change when the student moves from one residential setting to another.

(b) If a student is residing in a residential setting as described in subdivision (10)(a) of this section and such residential setting does not maintain an interim-program school as defined in section 79-1119.01 or an approved or accredited school, the resident school district shall contract with the district in which such residential setting is located for the provision of all educational services, including all special education services and support services as defined in section 79-1125.01, unless a parent or guardian and the resident school district agree that an appropriate education will be provided by the resident school district while the student is residing in such residential setting. If the resident school district is required to contract, the district in which such residential setting is located shall contract with the resident district and provide all educational services, including all special education services, to the student. If the two districts cannot agree on the amount of the contract, the State Department of Education shall determine the amount to be paid by the resident district to the district in which such residential setting is located based on the needs of the student, approved special education rates, the department's general experience with special education budgets, and the cost per student in the district in which such residential setting is located. Once the contract has been entered into, all legal responsibility for special education and related services shall be transferred to the school district in which the residential setting is located.

(c) If a student is residing in a residential setting as described in subdivision (10)(a) of this section and such residential setting maintains an interim-program school as defined in section 79-1119.01 or an approved or accredited school, the department shall reimburse such residential setting for the provision of all educational services, including all special education services and support services, with the amount of payment for all educational services determined pursuant to the average per pupil cost of the service agency as defined in section 79-1116. The resident school district shall retain responsibility for such



student's individualized education plan, if any. The educational services may be provided through (i) such interim-program school or approved or accredited school, (ii) a contract between the residential setting and the school district in which such residential setting is located, (iii) a contract between the residential setting and another service agency as defined in section 79-1124, or (iv) a combination of such educational service providers.

(d) If a school district pays a school district in which a residential setting is located for educational services provided pursuant to subdivision (10)(b) of this section and it is later determined that a different school district was the resident school district for such student at the time such educational services were provided, the school district that was later determined to be the resident school district shall reimburse the school district that initially paid for the educational services one hundred ten percent of the amount paid.

(e) A student residing in a residential setting described in this subsection shall be defined as a student with a handicap pursuant to Article VII, section 11, of the Constitution of Nebraska, and as such the state and any political subdivision may contract with institutions not wholly owned or controlled by the state or any political subdivision to provide the educational services to the student if such educational services are nonsectarian in nature.

(11) In the case of any individual eighteen years of age or younger who is a ward of the state or any court and who is placed in a county detention home established under section 43-2,110, the cost of his or her education shall be paid by the state, regardless of the district in which he or she resided at the time he or she became a ward, to the agency or institution which: (a) Is selected by the county board with jurisdiction over such detention home; (b) has agreed or contracted with such county board to provide educational services; and (c) has been approved by the State Department of Education pursuant to rules and regulations prescribed by the State Board of Education.

(12) No tuition shall be charged for students who may be by law allowed to attend the school without charge.

(13) The State Department of Education shall establish procedures and criteria for collecting enrollment, admission, and related information needed for any student to attend a school district in this state which shall include, but not be limited to, having an adult with legal or actual charge or control of a student provide through electronic means or other means specified by the department the name of the student, the name of the adult with legal or actual charge or control of the student, the address where the student is or will be residing, and information on how and where the adult may generally be reached during the school day.

(14) The department may adopt and promulgate rules and regulations to carry out the provisions of this section.

**Source:** Laws 1881, c. 78, subdivision V, § 4, p. 352; Laws 1883, c. 72, § 11, p. 293; Laws 1901, c. 63, § 10, p. 440; R.S.1913, § 6784; Laws 1921, c. 64, § 1, p. 250; C.S.1922, § 6325; Laws 1927, c. 88, § 1, p. 257; C.S.1929, § 79-504; R.S.1943, § 79-504; Laws 1947, c. 273, § 1, p. 877; Laws 1949, c. 256, § 84, p. 720; Laws 1972, LB 1219, § 1; Laws 1974, LB 43, § 1; Laws 1979, LB 128, § 1; Laws 1980, LB 770, § 1; Laws 1980, LB 839, § 1; Laws 1982, LB 642, § 1; Laws 1984, LB 286, § 1; Laws 1984, LB 768, § 1; Laws 1985, LB 592, § 1; Laws 1985, LB 725, § 1; Laws

1991, LB 511, § 29; Laws 1992, LB 245, § 34; Laws 1992, Third Spec. Sess., LB 3, § 1; Laws 1994, LB 858, § 5; R.S.1943, (1994), § 79-445; Laws 1996, LB 900, § 19; Laws 1996, LB 1044, § 814; Laws 1997, LB 307, § 212; Laws 2000, LB 1243, § 2; Laws 2001, LB 797, § 5; Laws 2002, LB 1105, § 503; Laws 2006, LB 1248, § 87; Laws 2008, LB1014, § 68; Laws 2010, LB1071, § 3; Laws 2010, LB1087, § 1; Laws 2015, LB525, § 4; Laws 2016, LB1067, § 11; Laws 2019, LB115, § 1.

#### Cross References

**Medical Assistance Act**, see section 68-901.

The permissive language in subsection (8) of this section pertaining to a "request by a parent or legal guardian" does not affect a student's residency determination and does not narrow the scope of the section to the minor students only. *Jefferson Cty. Bd. of Ed. v. York Cty. Bd. of Ed.*, 270 Neb. 407, 703 N.W.2d 257 (2005).

Pursuant to subsection (2) (now subsection (7)) of this section, the unambiguous language of this section obligates the state to pay the cost of both regular and special education received by state wards placed in Boys Town schools. Subsection (2) of this section does not violate Neb. Const. Art. VII, section 11. *Father Flanagan's Boys Home v. Dept. of Soc. Servs.*, 255 Neb. 303, 583 N.W.2d 774 (1998).

Domicile of child normally follows that of parent who has custody by virtue of decree of divorce. *State ex rel. Frasier v. Whaley*, 194 Neb. 703, 234 N.W.2d 909 (1975).

Cited in determining whether tuition had been paid for two or more consecutive years. *Pischel v. Kreycik*, 184 Neb. 332, 167 N.W.2d 388 (1969).

Agreement on part of parents to pay high school tuition will not be implied. *School District No. 15 of Furnas County v. Wilson*, 101 Neb. 683, 164 N.W. 709 (1917).

Nonresident pupil must pay tuition. *State ex rel. Vale v. School Dist. of City of Superior*, 55 Neb. 317, 75 N.W. 855 (1898).

Child, for school purposes, may have separate residence from parent. *Mizner v. School Dist. No. 11 of Sherman County*, 2 Neb. Unof. 238, 96 N.W. 128 (1901).

### **79-216 Children of members in military service; children of parents employed by federal government and living on property of national parks; residency.**

In all cases when any person is on active duty as a member of the United States Army, Navy, Marine Corps, or Air Force in the State of Nebraska and is residing on federally owned property, any child of school age of such active duty member who also resides on such property shall be considered a resident of the school district where such property is located and may be admitted pursuant to subsection (1) of section 79-215.

This section also applies to children of parents employed by the federal government and residing with their parents on the property of national parks or national monuments within this state.

**Source:** Laws 1937, c. 185, § 1, p. 742; C.S.Supp.,1941, § 79-521; R.S. 1943, § 79-518; Laws 1949, c. 256, § 85, p. 721; Laws 1959, c. 390, § 1, p. 1345; Laws 1967, c. 533, § 1, p. 1767; Laws 1971, LB 292, § 9; Laws 1993, LB 839, § 4; R.S.1943, (1994), § 79-446; Laws 1996, LB 900, § 20; Laws 2019, LB115, § 2.

Military personnel living off and on air base are part of population of county. *Ludwig v. Board of County Commissioners of Sarpy County*, 170 Neb. 600, 103 N.W.2d 838 (1960).

### **79-217 School board and governing authority; student; immunization against certain contagious diseases; exception.**

(1) Except as provided in sections 79-221 and 79-222, the school board or board of education of each school district and the governing authority of each private, denominational, or parochial school in this state shall require each student to be protected against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, and tetanus by immunization prior to enrollment. Any student

who does not comply with this section shall not be permitted to continue in school until he or she so complies, except as provided by section 79-222. Each school district shall make diligent efforts to inform families prior to the date of school registration of the immunization requirements of this section.

(2) Except as provided in sections 79-221 and 79-222, on and after July 1, 2010, every student entering the seventh grade shall have a booster immunization containing diphtheria and tetanus toxoids and an acellular pertussis vaccine which meets the standards approved by the United States Public Health Service for such biological products, as such standards existed on January 1, 2009.

(3) Except as provided in the Childhood Vaccine Act, the cost of such immunizations shall be borne by the parent or guardian of each student who is immunized or by the Department of Health and Human Services for those students whose parent or guardian is financially unable to meet such cost.

**Source:** Laws 1973, LB 173, § 1; Laws 1973, LB 546, § 1; Laws 1979, LB 59, § 2; Laws 1992, LB 431, § 8; Laws 1993, LB 536, § 109; Laws 1994, LB 1223, § 128; R.S.1943, (1994), § 79-444.01; Laws 1996, LB 900, § 21; Laws 1996, LB 1044, § 811; Laws 2005, LB 301, § 63; Laws 2007, LB296, § 707; Laws 2009, LB464, § 1.

**Cross References**

**Childhood Vaccine Act**, see section 71-526.

An unimmunized student's right to attend school on presentation of a properly signed immunization waiver is limited by a school board's authority, under former section 79-4,177(1), to

exclude the unimmunized student from school during presence of a disease specified by this section. *Maack v. School Dist. of Lincoln*, 241 Neb. 847, 491 N.W.2d 341 (1992).

**79-218 School board and governing authority; immunization clinics; request assistance.**

Any school board or board of education of a school district or the governing authority of a private, denominational, or parochial school in this state may request assistance from the Department of Health and Human Services in establishing immunization clinics. Such assistance shall consist of vaccines, serums, and other supplies, services, and guidance from the Department of Health and Human Services.

**Source:** Laws 1973, LB 173, § 2; R.S.1943, (1994), § 79-444.02; Laws 1996, LB 900, § 22; Laws 1996, LB 1044, § 812; Laws 2005, LB 301, § 64; Laws 2007, LB296, § 708.

**79-219 Student; immunization status; Department of Health and Human Services; rules and regulations.**

The Department of Health and Human Services shall adopt and promulgate rules and regulations relating to the required levels of protection, provisional enrollment under the provisions of section 79-222, the evidence necessary to prove that the required examination or immunization has been received, and the reporting of each student's immunization status. The department may modify, add to, or delete from the list of required immunizations set out in section 79-217. The department shall furnish local school authorities with copies of such rules and regulations and any other material which will assist in the carrying out of sections 79-214 and 79-217 to 79-223.

**Source:** Laws 1979, LB 59, § 3; Laws 1994, LB 1223, § 129; R.S.1943, (1994), § 79-444.03; Laws 1996, LB 900, § 23; Laws 1996, LB 1044, § 813; Laws 1998, LB 1073, § 159; Laws 2005, LB 301, § 65; Laws 2007, LB296, § 709.

**79-220 Child; physical examination; visual evaluation; immunization; right of refusal.**

At the time the parent or guardian of any child is notified that such child must have a physical examination and a visual evaluation pursuant to section 79-214 or immunizations pursuant to section 79-217, the parent or guardian shall also be notified in writing of (1) his or her right to submit a written statement refusing a physical examination, a visual evaluation, or immunization for his or her child and (2) a telephone number or other contact information to assist the parent or guardian in receiving information regarding free or reduced-cost visual evaluations for low-income families who qualify.

**Source:** Laws 1979, LB 59, § 4; R.S.1943, (1994), § 79-444.04; Laws 1996, LB 900, § 24; Laws 2005, LB 114, § 2.

**79-221 Immunization; when not required.**

Immunization shall not be required for a student's enrollment in any school in this state if he or she submits to the admitting official either of the following:

(1) A statement signed by a physician, a physician assistant, or an advanced practice registered nurse practicing under and in accordance with his or her respective certification act, stating that, in the health care provider's opinion, the immunizations required would be injurious to the health and well-being of the student or any member of the student's family or household; or

(2) An affidavit signed by the student or, if he or she is a minor, by a legally authorized representative of the student, stating that the immunization conflicts with the tenets and practice of a recognized religious denomination of which the student is an adherent or member or that immunization conflicts with the personal and sincerely followed religious beliefs of the student.

**Source:** Laws 1993, LB 536, § 110; Laws 1995, LB 214, § 2; R.S.Supp.,1995, § 79-444.06; Laws 1996, LB 900, § 25; Laws 2000, LB 1115, § 88; Laws 2005, LB 256, § 97.

**79-222 Immunizations; provisional enrollment; conditions.**

(1) A student may be provisionally enrolled in a school in Nebraska if he or she meets either of the following qualifications:

(a) The student has begun the immunizations required under section 79-217 and is receiving the necessary immunizations as rapidly as is medically feasible; or

(b) The student is the child or legal ward of an officer or enlisted person on active duty in any branch of the military services of the United States or of his or her spouse, enrolling in a Nebraska school following residence in another state or in a foreign country.

(2) As a condition for the provisional enrollment of a student qualified for such enrollment under subdivision (1)(b) of this section, a parent or adult legal guardian of the student shall provide the school with a signed written statement certifying that the student has completed the course of immunizations required by section 79-217.

(3) The provisional enrollment of a student qualified for such enrollment under subdivision (1)(b) of this section shall not continue beyond sixty days from the date of such enrollment. At such time the school shall be provided, with regard to the student, written evidence of compliance with section 79-217.

The student shall not be permitted to continue in school until such evidence of compliance is provided.

**Source:** Laws 1993, LB 536, § 111; Laws 1994, LB 1223, § 130; R.S.1943, (1994), § 79-444.07; Laws 1996, LB 900, § 26.

**79-223 Violations; penalty.**

Any person violating the provisions of section 79-214, 79-217, 79-219, or 79-220 shall be guilty of a Class V misdemeanor.

**Source:** Laws 1979, LB 59, § 5; R.S.1943, (1994), § 79-444.05; Laws 1996, LB 900, § 27.

(d) HEALTH CARE

**79-224 Asthma or anaphylaxis condition; self-management by student; conditions; request; authorization.**

(1) An approved or accredited public, private, denominational, or parochial school shall allow a student with asthma or anaphylaxis to self-manage his or her asthma or anaphylaxis condition upon written request of the student's parent or guardian and authorization of the student's physician or other health care professional who prescribed the medication for treatment of the student's condition, upon receipt of a signed statement under subsection (5) of this section, and pursuant to an asthma or anaphylaxis medical management plan developed under subsection (2) of this section.

(2) Upon receipt of a written request and authorization under subsection (1) of this section, the school and the parent or guardian, in consultation with the student's physician or such other health care professional, shall develop an asthma or anaphylaxis medical management plan for the student for the current school year. Such plan shall (a) identify the health care services the student may receive at school relating to such condition, (b) evaluate the student's understanding of and ability to self-manage his or her asthma or anaphylaxis condition, (c) permit regular monitoring of the student's self-management of his or her asthma or anaphylaxis condition by an appropriately credentialed health care professional, (d) include the name, purpose, and dosage of the prescription asthma or anaphylaxis medication prescribed for such student, (e) include procedures for storage and access to backup supplies of such prescription asthma or anaphylaxis medication, and (f) be signed by the student's parent or guardian and the physician or such other health care professional responsible for treatment of the student's asthma or anaphylaxis condition. The school may consult with a registered nurse or other health care professional employed by such school during development of the plan. The plan and the signed statement required by subsection (5) of this section shall be kept on file at the school where the student is enrolled.

(3) Pursuant to the asthma or anaphylaxis medical management plan developed under subsection (2) of this section, a student with asthma or anaphylaxis shall be permitted to self-manage his or her asthma or anaphylaxis condition in the classroom or any part of the school or on school grounds, during any school-related activity, or in any private location specified in the plan. The student for whom an asthma or anaphylaxis medical management plan has been developed under this section shall promptly notify the school nurse, such nurse's designee, or another designated adult at the school when such student

has self-administered prescription asthma or anaphylaxis medication pursuant to such plan.

(4)(a) If a student for whom an asthma or anaphylaxis medical management plan has been developed under this section uses his or her prescription asthma or anaphylaxis medication other than as prescribed, he or she may be subject to disciplinary action by the school, except that such disciplinary action shall not include a limitation or restriction on the student's access to such medication. The school shall promptly notify the parent or guardian of any disciplinary action imposed.

(b) If a student for whom an asthma or anaphylaxis medical management plan has been developed under this section injures school personnel or another student as the result of the misuse of prescription asthma or anaphylaxis medication or related medical supplies, the parent or guardian of the student for whom such plan has been developed shall be responsible for any and all costs associated with such injury.

(5) The parent or guardian of a student for whom an asthma or anaphylaxis medical management plan has been developed under this section shall sign a statement acknowledging that (a) the school and its employees and agents are not liable for any injury or death arising from a student's self-management of his or her asthma or anaphylaxis condition and (b) the parent or guardian shall indemnify and hold harmless the school and its employees and agents against any claim arising from a student's self-management of his or her asthma or anaphylaxis condition.

**Source:** Laws 2006, LB 1148, § 1; Laws 2016, LB1086, § 1.

**79-225 Diabetic condition; self-management by student; conditions; request; authorization.**

(1) An approved or accredited public, private, denominational, or parochial school shall allow a student with diabetes to self-manage his or her diabetic condition upon written request of the student's parent or guardian and authorization of the student's physician, upon receipt of a signed statement under subsection (5) of this section, and pursuant to a diabetes medical management plan developed under subsection (2) of this section.

(2) Upon receipt of a written request and authorization under subsection (1) of this section, the school and the parent or guardian, in consultation with the student's physician, shall develop a diabetes medical management plan for the student for the current school year. The plan shall (a) identify the health care services the student may receive at school relating to such condition, (b) evaluate the student's understanding of and ability to self-manage his or her diabetic condition, (c) permit regular monitoring of the student's self-management of his or her diabetic condition by an appropriately credentialed health care professional, and (d) be signed by the student's parent or guardian and the physician responsible for treatment of the student's diabetic condition. The school may consult with a registered nurse or other health care professional employed by such school during development of the plan. The plan and the signed statement required by subsection (5) of this section shall be kept on file at the school where the student is enrolled.

(3) Pursuant to the diabetes medical management plan developed under subsection (2) of this section, a student with a diabetic condition shall be permitted to self-manage his or her diabetic condition in the classroom or any

part of the school or on school grounds during any school-related activity or in any private location specified in the plan.

(4)(a) A school may prohibit a student from possessing the necessary medical supplies to self-manage his or her diabetic condition or place other necessary and appropriate restrictions or conditions on the student’s self-management of his or her diabetic condition if the school determines that the student has endangered himself, herself, or others through the misuse or threatened misuse of such medical supplies. The school shall promptly notify the parent or guardian of any prohibition, restriction, or condition imposed.

(b) If a student for whom a diabetes medical management plan has been developed under this section injures school personnel or another student as the result of the misuse of necessary diabetic medical supplies, the parent or guardian of the student for whom such plan has been developed shall be responsible for any and all costs associated with such injury.

(5) The parent or guardian of a student for whom a diabetes medical management plan has been developed under this section shall sign a statement acknowledging that (a) the school and its employees and agents are not liable for any injury or death arising from a student’s self-management of his or her diabetic condition and (b) the parent or guardian shall indemnify and hold harmless the school and its employees and agents against a claim arising from a student’s self-management of his or her diabetic condition.

**Source:** Laws 2006, LB 1107, § 1.

**79-226 Menstrual products; pilot program; priorities; school board; policy; report.**

(1) Beginning in school year 2025-26 and subject to available appropriations, the State Department of Education shall develop a pilot program to make menstrual products, including both pads and tampons, available to each school district. Priority shall be given to each school district:

(a) That classifies as a needs improvement school under the accountability system developed by the State Board of Education pursuant to section 79-760.06; or

(b) In which forty percent of the students are poverty students as defined in section 79-1003.

(2) For school year 2025-26, a school district that receives free menstrual products pursuant to subsection (1) of this section shall ensure that free menstrual products, including both pads and tampons, are available in school bathrooms.

(3) A school board or board of education may adopt a policy relating to the requirements of this section.

(4) The State Department of Education shall submit a report electronically to the Clerk of the Legislature and the Education Committee of the Legislature relating to the pilot program for free menstrual products pursuant to this section on or before December 1, 2026.

(5) It is the intent of the Legislature to appropriate an amount not to exceed two hundred fifty thousand dollars from the Education Future Fund for fiscal year 2025-26 to the State Department of Education to carry out this section.

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

**Source:** Laws 2024, LB1284, § 1.  
Operative date July 19, 2024.

**79-227 Repealed. Laws 1997, LB 347, § 59.**

**79-228 Repealed. Laws 1997, LB 347, § 59.**

**79-229 Repealed. Laws 1997, LB 347, § 59.**

**79-230 Repealed. Laws 1997, LB 347, § 59.**

**79-231 Repealed. Laws 1997, LB 347, § 59.**

(e) ENROLLMENT OPTION PROGRAM

**79-232 Legislative findings.**

The Legislature finds and declares that parents and legal guardians have the primary responsibility of ensuring that their children receive the best education possible. In recognition of this responsibility, the Legislature intends to provide educational options for parents and legal guardians, when deciding what public school or public school district is best for their children, by allowing them to consider the following factors, including, but not limited to:

- (1) The size of the schools and school districts in the area;
- (2) The distance children have to travel and the ease and availability of transportation;
- (3) The course offerings and extracurricular offerings of the schools and school districts in the area;
- (4) The quantity and quality of the staff at such schools and school districts; and
- (5) The performance of the school district on any indicators of performance established by the State Department of Education.

**Source:** Laws 1989, LB 183, § 1; Laws 1994, LB 930, § 1; R.S.1943, (1994), § 79-3401; Laws 1996, LB 900, § 36; Laws 2006, LB 1024, § 17.

**79-233 Terms, defined.**

For purposes of sections 79-232 to 79-246:

- (1) Enrollment option program means the program established in section 79-234;
- (2) Option school district means the public school district that an option student chooses to attend instead of his or her resident school district;
- (3) Option student means a student that has chosen to attend an option school district, including an open enrollment option student or a student who resides in a learning community and began attendance as an option student in an option school district in such learning community prior to the end of the first full school year for which the option school district will be a member of such learning community, but, for school years prior to school year 2017-18, not including a student who resides in a learning community and who attends



pursuant to section 79-2110 another school district in such learning community;

(4) Open enrollment option student means a student who resides in a school district that is a member of a learning community, attended a school building in another school district in such learning community as an open enrollment student pursuant to section 79-2110, and attends such school building as an option student pursuant to section 79-235.01;

(5) Resident school district means the public school district in which a student resides or the school district in which the student is admitted as a resident of the school district pursuant to section 79-215; and

(6) Siblings means all children residing in the same household on a permanent basis who have the same mother or father or who are stepbrother or stepsister to each other.

**Source:** Laws 1989, LB 183, § 2; Laws 1990, LB 843, § 3; Laws 1992, LB 1001, § 36; R.S.1943, (1994), § 79-3402; Laws 1996, LB 900, § 37; Laws 1997, LB 347, § 4; Laws 2006, LB 1024, § 18; Laws 2008, LB988, § 3; Laws 2009, LB62, § 1; Laws 2009, LB549, § 4; Laws 2016, LB1067, § 12.

**79-234 Enrollment option program; established; limitations.**

(1) An enrollment option program is hereby established to enable any kindergarten through twelfth grade Nebraska student to attend a school in a Nebraska public school district in which the student does not reside subject to the limitations prescribed in section 79-238. The option shall be available once during elementary school, once during middle school or junior high school, and once during high school for a total of three times to each student, except that the option does not count toward such limitation if such option meets, or met at the time of the option, one of the following criteria: (a) The student relocates to a different resident school district, (b) the option school district merges with another district, (c) the student will have completed either the grades offered in the school building originally attended in the option school district or the grades immediately preceding the lowest grade offered in the school building for which a new option is sought, (d) the option would allow the student to continue current enrollment in a school district, (e) the option would allow the student to enroll in a school district in which the student was previously enrolled as a student, or (f) the student is an open enrollment option student. Sections 79-232 to 79-246 do not relieve a parent or guardian from the compulsory attendance requirements in section 79-201.

(2) The program shall not apply to any student who resides in a district which has entered into an annexation agreement pursuant to section 79-473, except that such student may transfer to another district which accepts option students.

**Source:** Laws 1989, LB 183, § 3; Laws 1990, LB 843, § 4; Laws 1991, LB 207, § 3; Laws 1993, LB 348, § 64; R.S.1943, (1994), § 79-3403; Laws 1996, LB 900, § 38; Laws 2008, LB1154, § 7; Laws 2009, LB549, § 5; Laws 2013, LB410, § 3; Laws 2016, LB1066, § 2; Laws 2016, LB1067, § 13; Laws 2018, LB377, § 13; Laws 2024, LB1329, § 17.

Effective date July 19, 2024.

**79-235 Option students; treatment; building assignment.**

For purposes of all duties, entitlements, and rights established by law, including special education as provided in section 79-1127, except as provided in section 79-241 and, for open enrollment option students, except as provided in section 79-235.01, option students shall be treated as resident students of the option school district. The option student may request a particular school building, but the building assignment of the option student shall be determined by the option school district except as provided in section 79-235.01 for open enrollment option students and in subsection (3) of section 79-2110 for students attending a focus school, focus program, or magnet school. In determining eligibility for extracurricular activities as defined in section 79-2,126, the option student shall be treated similarly to other students who transfer into the school from another public, private, denominational, or parochial school.

**Source:** Laws 1989, LB 183, § 4; Laws 1990, LB 843, § 5; R.S.1943, (1994), § 79-3404; Laws 1996, LB 900, § 39; Laws 1996, LB 1050, § 8; Laws 2003, LB 249, § 1; Laws 2016, LB1067, § 14.

**79-235.01 Open enrollment option student; continued attendance; attendance at another school building; application.**

Each student attending a school building outside of the resident school district as an open enrollment student pursuant to section 79-2110 for any part of school year 2016-17 shall be automatically approved as an open enrollment option student beginning with school year 2017-18 and allowed to continue attending such school building as an option student without submitting an additional application unless the student has completed the grades offered in such school building or has been expelled and is disqualified pursuant to section 79-266.01. Except as provided in subsection (3) of section 79-2110 for students attending a focus school, focus program, or magnet school, approval as an open enrollment option student pursuant to this section does not permit the student to attend another school building within the option school district unless an application meeting the requirements prescribed in section 79-237 is approved by the school board of the option school district. Upon approval of an application meeting the requirements prescribed in section 79-237, a student previously enrolled as an open enrollment student in the option school district shall be treated as an option student of the option school district without regard to his or her former status as an open enrollment student. Except as otherwise provided in this section and sections 79-234, 79-235, 79-237, and 79-238 and subsection (3) of section 79-2110, open enrollment option students shall be treated as option students of the option school district.

**Source:** Laws 2016, LB1067, § 15.

**79-236 Program; implementation.**

Beginning with the 1993-94 school year, the enrollment option program shall be implemented by all public school districts.

**Source:** Laws 1989, LB 183, § 5; Laws 1990, LB 843, § 6; Laws 1991, LB 207, § 4; Laws 1993, LB 348, § 65; R.S.1943, (1994), § 79-3405; Laws 1996, LB 900, § 40.

**79-237 Attendance; application; cancellation; forms.**

(1) For a student to begin attendance as an option student in an option school district, the student's parent or legal guardian shall submit an application to the school board of the option school district between September 1 and March 15 for attendance during the following and subsequent school years. Except as provided in subsection (2) of this section, applications submitted after March 15 shall contain a release approval from the resident school district, or if the student is an option student at the time of such application and applying to become an option student at a subsequent option school district, a release approval from the option school district the student is attending at the time of such application, on the application form prescribed by the Commissioner of Education pursuant to subsection (8) of this section. A district may not accept or approve any applications submitted after such date without such a release approval. The option school district the student is applying to attend shall provide the resident school district, and if applicable, the option school district the student is attending at the time of such application, with the name of the applicant on or before April 1 or, in the case of an application submitted after March 15, within sixty days after submission. The option school district the student is applying to attend shall notify, in writing, the parent or legal guardian of the student and the resident school district, and, if applicable, the option school district the student is attending at the time of the application, whether the application is accepted or rejected on or before April 1 or, in the case of an application submitted after March 15, within sixty days after submission.

(2) A student who relocates to a different resident school district after February 1 or whose option school district merges with another district effective after February 1 may submit an application to the school board of an option school district for attendance during the current or immediately following and subsequent school years. Such application does not require the release approval of the resident school district or the option school district the student is attending at the time of such application. The option school district the student is applying to attend shall accept or reject such application within forty-five days.

(3) A parent or guardian may provide information on the application for an option school district that is a member of a learning community regarding the applicant's potential qualification for free or reduced-price lunches. Any such information provided shall be subject to verification and shall only be used for the purposes of subsection (4) of section 79-238. Nothing in this subsection requires a parent or guardian to provide such information. Determinations about an applicant's qualification for free or reduced-price lunches for purposes of subsection (4) of section 79-238 shall be based on any verified information provided on the application. If no such information is provided, the student shall be presumed not to qualify for free or reduced-price lunches for the purposes of subsection (4) of section 79-238.

(4) Applications for students who do not actually attend the option school district that the student applied to attend may be withdrawn in good standing upon mutual agreement by the resident and option school districts involved.

(5) No option student shall attend an option school district for less than one school year unless the student relocates to a different resident school district, completes requirements for graduation prior to the end of his or her senior year, transfers to a private or parochial school, or upon mutual agreement of the resident and option school districts cancels the enrollment option and

returns to the resident school district or the previous option school district the student was attending immediately prior.

(6) Except as provided in subsection (5) of this section or, for open enrollment option students, in section 79-235.01, the option student shall attend the option school district until graduation unless the student relocates in a different resident school district, transfers to a private or parochial school, chooses to return to the resident school district, or options into a subsequent option school district, except that no student may use the enrollment option program other than as provided in section 79-234.

(7) In each case of cancellation pursuant to subsections (5) and (6) of this section, the student's parent or legal guardian shall provide written notification to the school board of the option school district or districts and the resident school district on forms prescribed by the Commissioner of Education under subsection (8) of this section in advance of such cancellation.

(8) The application and cancellation forms shall be prescribed by the Commissioner of Education.

(9) An option student who subsequently chooses to attend a private or parochial school and who is not an open enrollment option student shall be automatically accepted to return to either the resident school district or option school district upon the completion of the grade levels offered at the private or parochial school. If such student chooses to return to the option school district, the student's parent or legal guardian shall submit another application to the school board of the option school district which shall be automatically accepted, and the deadlines prescribed in this section shall be waived.

**Source:** Laws 1989, LB 183, § 6; Laws 1990, LB 843, § 7; Laws 1993, LB 348, § 66; Laws 1993, LB 838, § 1; R.S.1943, (1994), § 79-3406; Laws 1996, LB 900, § 41; Laws 2001, LB 797, § 6; Laws 2006, LB 1024, § 19; Laws 2009, LB62, § 2; Laws 2009, LB549, § 6; Laws 2013, LB410, § 4; Laws 2016, LB1066, § 3; Laws 2016, LB1067, § 16; Laws 2017, LB512, § 7; Laws 2018, LB668, § 1; Laws 2024, LB1329, § 18.  
Effective date July 19, 2024.

**79-238 Application acceptance and rejection; specific capacity standards; request for release; standards and conditions.**

(1)(a) Except as provided in this section and sections 79-235.01 and 79-240, the school board of the option school district shall adopt by resolution specific capacity standards for acceptance and rejection of applications.

(b) Capacity for special education services operated by an option school district shall be determined on a case-by-case basis. If an application for option enrollment received by a school district indicates that the student has an individualized education program under the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., or has been diagnosed with a disability as defined in section 79-1118.01, such application shall be evaluated by the director of special education services of the school district or the director's designee who shall determine if the school district and the appropriate class, grade level, or school building in such school district has the capacity to provide the applicant the appropriate services and accommodations.

(c) For all other students, standards may include the capacity of a program, class, grade level, or school building. Capacity shall be determined by setting a maximum number of option students that a district will accept in any program, class, grade level, or school building, based upon available staff, facilities, projected enrollment of resident students, and projected number of students with which the option school district will contract based on existing contractual arrangements.

(d) To facilitate option enrollment, school districts shall annually establish, publish, and report the capacity for each school building under such district's control pursuant to procedures, criteria, and deadlines established by the State Board of Education. Except as otherwise provided in this section, a school board may by resolution, prior to October 15 of each school year, declare a program, a class, or a school unavailable to option students for the next school year due to lack of capacity. Standards shall not include previous academic achievement, athletic or other extracurricular ability, disabilities, proficiency in the English language, or previous disciplinary proceedings except as provided in section 79-266.01. False or substantively misleading information submitted by a parent or guardian on an application to an option school district may be cause for the option school district to reject a previously accepted application if the rejection occurs prior to the student's attendance as an option student.

(2) The school board of every school district shall also adopt specific standards and conditions for acceptance or rejection of a request for release of a resident or option student submitting an application to an option school district after March 15 under subsection (1) of section 79-237. Standards shall not include that a request occurred after the deadline set forth in this subsection.

(3) Any option school district that is not a member of a learning community shall give first priority for enrollment to siblings of option students, except that the option school district shall not be required to accept the sibling of an option student if the district is at capacity except as provided in subsection (1) of section 79-240.

(4) Any option school district that is in a learning community shall give first priority for enrollment to siblings of option students enrolled in the option school district, second priority for enrollment to students who have previously been enrolled in the option school district as an open enrollment student, third priority for enrollment to students who reside in the learning community and who contribute to the socioeconomic diversity of enrollment at the school building to which the student will be assigned pursuant to section 79-235, and final priority for enrollment to other students who reside in the learning community. The option school district shall not be required to accept a student meeting the priority criteria in this section if the district is at capacity as determined pursuant to subsection (1) of this section except as provided in section 79-235.01 or 79-240. For purposes of the enrollment option program, a student who contributes to the socioeconomic diversity of enrollment at a school building within a learning community means (a) a student who does not qualify for free or reduced-price lunches when, based upon the certification pursuant to section 79-2120, the school building the student will be assigned to attend either has more students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the learning community or provides free meals to all students pursuant to the community eligibility provision or (b) a student who qualifies for free or reduced-price lunches based on information collected voluntarily from parents

and guardians pursuant to section 79-237 when, based upon the certification pursuant to section 79-2120, the school building the student will be assigned to attend has fewer students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the learning community and does not provide free meals to all students pursuant to the community eligibility provision.

**Source:** Laws 1989, LB 183, § 7; Laws 1990, LB 843, § 8; Laws 1991, LB 207, § 5; Laws 1992, LB 1001, § 37; Laws 1994, LB 930, § 2; R.S.1943, (1994), § 79-3407; Laws 1996, LB 900, § 42; Laws 1997, LB 346, § 2; Laws 2001, LB 797, § 7; Laws 2006, LB 1024, § 20; Laws 2009, LB62, § 3; Laws 2009, LB549, § 7; Laws 2016, LB1066, § 4; Laws 2016, LB1067, § 17; Laws 2023, LB705, § 55; Laws 2024, LB1329, § 19.  
Effective date July 19, 2024.

**79-239 Application; request for release; rejection; notice; appeal; school district; Commissioner of Education; duties.**

(1) If an application is rejected by the option school district or if the resident school district rejects a request for release under subsection (1) of section 79-237, the rejecting school district shall provide written notification to the parent or guardian stating (a) the specific reasons for the rejection including, for students with an individualized education program under the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., or with a diagnosed disability as defined in section 79-1118.01, a description of services and accommodations required that the school district does not have the capacity to provide, and (b) the process for appealing such rejection to the State Board of Education. Such notification shall be sent by certified mail.

(2) The parent or legal guardian may appeal a rejection to the State Board of Education by filing a written request, together with a copy of the rejection notice, with the State Board of Education. Such request and copy of the notice must be received by the board within thirty days after the date the notification of the rejection was received by the parent or legal guardian. Such hearing shall be held in accordance with the Administrative Procedure Act and shall determine whether the procedures of sections 79-234 to 79-241 have been followed. Any rejection based upon capacity limitations established under section 79-238 shall be the responsibility of the school district to prove in any appeal filed with the state board.

(3)(a) Beginning July 1, 2024, and on or before July 1 of each year thereafter, each school district shall provide to the State Department of Education information prescribed by the Commissioner of Education relating to all applications rejected by the option school district. Such information shall include, but not be limited to, (a) the number of applications rejected in each public school in such district, (b) an explanation why each application was rejected, (c) whether each application for option enrollment indicated that the student had an individualized education program under the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., or had been identified as a student with a disability as defined in section 79-1118.01, and (d) whether information regarding the requirements of subsection (4) of section 79-238 was provided to the applicant.

(b) The Commissioner of Education shall annually compile the information received pursuant to this subsection and provide a report on such information electronically to the Legislature beginning on September 1, 2024, and on or before September 1 of each year thereafter. The State Board of Education may adopt and promulgate rules and regulations to carry out this subsection.

**Source:** Laws 1989, LB 183, § 8; Laws 1992, LB 1001, § 38; Laws 1993, LB 348, § 67; R.S.1943, (1994), § 79-3408; Laws 1996, LB 900, § 43; Laws 2009, LB549, § 8; Laws 2023, LB705, § 56; Laws 2024, LB1329, § 20.  
Effective date July 19, 2024.

**Cross References**

**Administrative Procedure Act**, see section 84-920.

**79-240 Relocation; automatic acceptance; deadlines waived.**

(1) The application of a student who relocates in a different school district but wants to continue attending his or her original resident school district and who has been enrolled in his or her original resident school district for the immediately preceding two years shall be automatically accepted, and the deadlines prescribed in section 79-237 shall be waived.

(2) The application of an option student who relocates in a different school district but wants to continue attending the option school district shall be automatically accepted, and the deadlines prescribed in section 79-237 shall be waived.

**Source:** Laws 1989, LB 183, § 9; Laws 1990, LB 843, § 9; Laws 1991, LB 207, § 6; Laws 1992, LB 1001, § 39; Laws 1993, LB 348, § 68; R.S.1943, (1994), § 79-3409; Laws 1996, LB 900, § 44; Laws 1996, LB 1050, § 9; Laws 2009, LB549, § 9.

**79-241 Transportation; fee authorized; reimbursement; when; free transportation; when.**

(1) Except as otherwise provided in this section, section 79-611 does not apply to the transportation of an option student. The parent or legal guardian of the option student shall be responsible for required transportation. A school district may, upon mutual agreement with the parent or legal guardian of an option student, provide transportation to the option student on the same basis as provided for resident students. The school district may charge the parents of each option student transported a fee sufficient to recover the additional costs of such transportation.

(2) Option students who qualify for free lunches shall be eligible for either free transportation or transportation reimbursement as described in section 79-611 from the option school district pursuant to policies established by the school district in compliance with this section, except that they shall be reimbursed at the rate of one hundred forty-two and one-half percent of the mandatorily established mileage rate provided in section 81-1176 for each mile actually and necessarily traveled on each day of attendance by which the distance traveled one way from the residence of such student to the school-house exceeds three miles.

(3) For open enrollment option students who received free transportation for school year 2016-17 pursuant to subsection (2) of section 79-611, the school

board of the option school district shall continue to provide free transportation for the duration of the student's status as an open enrollment option student or for the duration of the student's enrollment in a pathway pursuant to subsection (3) of section 79-2110 unless the student relocates to a school district that would have prevented the student from qualifying for free transportation for the 2016-17 school year pursuant to subsection (2) of section 79-611.

(4) For option students verified as having a disability as defined in section 79-1118.01, the transportation services set forth in section 79-1129 shall be provided by the resident school district. The State Department of Education shall reimburse the resident school district for the cost of transportation in accordance with section 79-1144.

**Source:** Laws 1989, LB 183, § 10; Laws 1990, LB 843, § 10; Laws 1991, LB 207, § 7; Laws 1992, LB 1001, § 40; Laws 1993, LB 838, § 2; Laws 1993, LB 348, § 69; R.S.1943, (1994), § 79-3410; Laws 1996, LB 900, § 45; Laws 1997, LB 346, § 3; Laws 1998, Spec. Sess., LB 1, § 8; Laws 2013, LB410, § 5; Laws 2016, LB1067, § 18.

**79-242 Graduation credits; award of diploma.**

An option school district shall accept credits toward graduation that were awarded by another school district. The option school district shall award a diploma to an option student if the student meets its graduation requirements.

**Source:** Laws 1989, LB 183, § 12; R.S.1943, (1994), § 79-3412; Laws 1996, LB 900, § 46.

**79-243 School district; provide information.**

A school district shall make information about the school district and its schools, programs, policies, and procedures available to all interested people.

**Source:** Laws 1989, LB 183, § 13; R.S.1943, (1994), § 79-3413; Laws 1996, LB 900, § 47.

**79-244 Program; effect on contracting.**

The enrollment option program does not preclude a school district from contracting with other school districts, educational service units, or other state-approved entities for the provision of services.

**Source:** Laws 1989, LB 183, § 14; Laws 1990, LB 843, § 11; R.S.1943, (1994), § 79-3414; Laws 1996, LB 900, § 48; Laws 1997, LB 346, § 4; Laws 2023, LB705, § 57.

**79-245 Tax Equity and Educational Opportunities Support Act; applicability.**

The Tax Equity and Educational Opportunities Support Act shall apply to the enrollment option program as provided in this section. For purposes of the act, option students shall not be counted as formula students by the resident school district and shall be counted as formula students by the option school district.

**Source:** Laws 1989, LB 183, § 15; Laws 1990, LB 843, § 12; Laws 1991, LB 511, § 69; Laws 1992, LB 245, § 74; R.S.1943, (1994), § 79-3415; Laws 1996, LB 900, § 49; Laws 1997, LB 346, § 5; Laws 1997, LB 347, § 5; Laws 1998, Spec. Sess., LB 1, § 9; Laws 2016, LB1067, § 19.



## Cross References

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

**79-246 Special education programs; reimbursement to option school district.**

The State Department of Education shall reimburse each option school district for special education programs provided to option students in accordance with section 79-1142.

The resident school district of an option student shall be exempted from the payment responsibility set forth in section 79-1140.

For purposes of calculation to determine reimbursement pursuant to section 79-1142, the option school district shall include the adjusted average per pupil cost as defined in section 79-1114 of the option school district and not the amount received pursuant to section 79-245.

**Source:** Laws 1989, LB 183, § 16; Laws 1990, LB 843, § 13; R.S.1943, (1994), § 79-3416; Laws 1996, LB 900, § 50.

**79-247 Repealed. Laws 1997, LB 347, § 59.**

(f) HEALTH INSPECTIONS

**79-248 Pupils; health inspections; notice of defects; contagious or infectious disease; duty of school district.**

Every school district shall cause children under its jurisdiction to be separately and carefully inspected, except as otherwise provided in this section, to ascertain if a child is suffering from (1) defective sight or hearing, (2) dental defects, or (3) other conditions as prescribed by the Department of Health and Human Services. Such inspections shall be conducted on a schedule prescribed by the department and shall be based on current medical and public health practice. If such inspection determines that any child has such condition, the school shall notify the parent of the child in writing of such condition and explain to such parent the necessity of professional attendance for such child. Whenever a child apparently shows symptoms of any contagious or infectious disease, such child shall be sent home immediately or as soon as safe and proper conveyance can be found and the proper school authority, school board, or board of education shall be at once notified. Such student may be excluded from school as provided in section 79-264. A child shall not be required to submit to an inspection required by this section if his or her parent or guardian provides school authorities with a statement signed by a physician, a physician assistant, or an advanced practice registered nurse practicing under and in accordance with his or her respective credentialing act or other qualified provider as identified by the department in rules and regulations adopted pursuant to section 79-249, stating that such child has undergone such required inspection within the past six months. A child shall submit to any required inspection for which such a statement is not received.

**Source:** Laws 1919, c. 241, § 1, p. 1004; C.S.1922, § 6536; Laws 1923, c. 55, § 1, p. 176; C.S.1929, § 79-2113; R.S.1943, § 79-2122; Laws 1949, c. 256, § 171, p. 748; Laws 1967, c. 538, § 1, p. 1778; R.S.1943, (1994), § 79-4,133; Laws 1996, LB 900, § 52; Laws 1996, LB 1044, § 815; Laws 2007, LB296, § 710; Laws 2010, LB713, § 1.

## Cross References

Immunization requirements, see sections 79-217 to 79-223.

**79-249 Pupils; health inspections; rules; duties of Department of Health and Human Services; compliance with Medication Aide Act; when.**

The Department of Health and Human Services shall adopt and promulgate rules and regulations for conducting school health inspections, the qualifications of the person or persons authorized to make such inspections, and the health conditions to be observed and remedied and shall furnish to school authorities the rules and regulations and other useful materials for carrying out the purposes of sections 79-248 to 79-253. The department may make available to schools methods for the gathering, analysis, and sharing of school health data that do not violate any privacy laws.

On and after July 1, 1999, no staff member of any school shall administer medication unless the school complies with the applicable requirements of the Medication Aide Act. Notwithstanding any other provision, nothing in the act shall be construed to require any school to employ or use a school nurse or medication aide in order to be in compliance with the act.

**Source:** Laws 1919, c. 241, § 2, p. 1004; C.S.1922, § 6537; C.S.1929, § 79-2114; R.S.1943, § 79-2123; Laws 1949, c. 256, § 172, p. 749; Laws 1967, c. 538, § 2, p. 1778; R.S.1943, (1994), § 79-4,134; Laws 1996, LB 900, § 53; Laws 1996, LB 1044, § 816; Laws 1998, LB 1354, § 43; Laws 2007, LB296, § 711; Laws 2010, LB713, § 2.

## Cross References

Medication Aide Act, see section 71-6718.

**79-250 Pupils; health inspections; when required.**

During each school year the school district shall provide the inspections required by section 79-248 for the children then in attendance. As children enter school during the year, such inspections shall be confirmed upon their entrance.

**Source:** Laws 1919, c. 241, § 3, p. 1004; C.S.1922, § 6538; C.S.1929, § 79-2115; R.S.1943, § 79-2124; Laws 1949, c. 256, § 173, p. 749; Laws 1967, c. 538, § 3, p. 1778; R.S.1943, (1994), § 79-4,135; Laws 1996, LB 900, § 54; Laws 2010, LB713, § 3.

**79-251 Pupils; health inspections; duty of school board.**

The boards of education and school boards of the school districts of the state shall enforce the provisions of sections 79-248 to 79-253.

**Source:** Laws 1919, c. 241, § 4, p. 1004; C.S.1922, § 6539; C.S.1929, § 79-2116; R.S.1943, § 79-2125; Laws 1949, c. 256, § 174, p. 749; R.S.1943, (1994), § 79-4,136; Laws 1996, LB 900, § 55.

**79-252 Pupils; health inspections; employment of physicians authorized.**

In lieu of conducting the inspections required by section 79-248, the board of education or school board of any school district may employ regularly licensed physicians to make such inspections.

**Source:** Laws 1919, c. 241, § 5, p. 1005; C.S.1922, § 6540; C.S.1929, § 79-2117; R.S.1943, § 79-2126; Laws 1949, c. 256, § 175, p. 749; Laws 1967, c. 538, § 4, p. 1779; R.S.1943, (1994), § 79-4,137; Laws 1996, LB 900, § 56; Laws 2010, LB713, § 4.

**79-253 Pupils; health inspections; violation; penalty.**

Any person violating any of the provisions of sections 79-248 to 79-252 shall be guilty of a Class V misdemeanor.

**Source:** Laws 1919, c. 241, § 6, p. 1005; C.S.1922, § 6541; C.S.1929, § 79-2118; R.S.1943, § 79-2127; Laws 1949, c. 256, § 176, p. 749; Laws 1977, LB 39, § 253; R.S.1943, (1994), § 79-4,138; Laws 1996, LB 900, § 57.

(g) STUDENT DISCIPLINE

**79-254 Act, how cited.**

Sections 79-254 to 79-294 shall be known and may be cited as the Student Discipline Act.

**Source:** Laws 1994, LB 1250, § 6; Laws 1995, LB 658, § 1; R.S.Supp.,1995, § 79-4,169; Laws 1996, LB 900, § 58; Laws 1999, LB 195, § 1; Laws 2023, LB705, § 58.

**Cross References**

**Gun-free school zones**, see section 28-1204.04.

**Membership in secret school organization**, grounds for denial of school privileges, see section 79-2,101 et seq.

School officials' statutory authority to conduct searches of students is implied by the Student Discipline Act. *J.P. v. Millard Public Schools*, 285 Neb. 890, 830 N.W.2d 453 (2013).

**79-255 Act; purpose.**

The purpose of the Student Discipline Act is to assure the protection of all elementary and secondary school students' constitutional right to due process and fundamental fairness within the context of an orderly and effective educational process. The sanctions defined in the act shall be interpreted at all times in the light of the principles of free speech and assembly protected under the Constitution of Nebraska and the United States Constitution and in recognition of the right of every student to public education.

**Source:** Laws 1976, LB 503, § 1; Laws 1994, LB 1250, § 7; R.S.1943, (1994), § 79-4,170; Laws 1996, LB 900, § 59.

**79-256 Terms, defined.**

For purposes of the Student Discipline Act, unless the context otherwise requires:

- (1) Long-term suspension means the exclusion of a student from attendance in all schools within the system for a period exceeding five school days but less than twenty school days;

(2) Expulsion means exclusion from attendance in all schools within the system in accordance with section 79-283;

(3) Mandatory reassignment means the involuntary transfer of a student to another school; and

(4) Short-term suspension means the exclusion of a student from attendance in all schools within the system for a period not to exceed five school days.

**Source:** Laws 1976, LB 503, § 10; Laws 1994, LB 1250, § 15; R.S.1943, (1994), § 79-4,179; Laws 1996, LB 900, § 60; Laws 1997, LB 232, § 1; Laws 2023, LB705, § 62.

**79-257 School board or board of education; emergency disciplinary actions; authorized.**

The school board or board of education may authorize the emergency exclusion, short-term or long-term suspension, expulsion, or mandatory reassignment of any pupil from school for conduct prohibited by the board's rules or standards established pursuant to the Student Discipline Act if such emergency exclusion, short-term or long-term suspension, expulsion, or mandatory reassignment complies with the procedures required by the act.

**Source:** Laws 1976, LB 503, § 2; Laws 1994, LB 1250, § 8; R.S.1943, (1994), § 79-4,171; Laws 1996, LB 900, § 61.

**79-258 Administrative and teaching personnel; authorized actions.**

Administrative and teaching personnel may take actions regarding student behavior, other than those specifically provided in the Student Discipline Act, which are reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process. Such actions may include, but need not be limited to, counseling of students, parent conferences, referral to restorative justice practices or services, rearrangement of schedules, requirements that a student remain in school after regular hours to do additional work, restriction of extracurricular activity, or requirements that a student receive counseling, psychological evaluation, or psychiatric evaluation upon the written consent of a parent or guardian to such counseling or evaluation.

**Source:** Laws 1976, LB 503, § 3; Laws 1994, LB 1250, § 9; R.S.1943, (1994), § 79-4,172; Laws 1996, LB 900, § 62; Laws 2019, LB595, § 40.

This section provides authority for school teachers and administrators to use physical contact short of corporal punishment to the degree necessary to preserve order and control in the school environment, and authorizes an acceptable level of incidental

physical contact, as is necessary for teachers to promote personal interaction with their students. *Daily v. Board of Ed. of Morrill Cty. School Dist. No. 62-0063*, 256 Neb. 73, 588 N.W.2d 813 (1999).

**79-259 Student suspension, expulsion, or exclusion; not a violation of compulsory attendance; compliance with other laws required.**

If a student is suspended, expelled, or excluded from school or from any educational function pursuant to the Student Discipline Act, such absence from school shall not be deemed a violation on the part of any person under any compulsory school attendance statutes. Any suspension or expulsion under the act shall comply with the requirements of the Special Education Act and the requirements of the federal Individuals with Disabilities Education Act, 20 U.S.C. 1401 et seq.

**Source:** Laws 1976, LB 503, § 4; Laws 1994, LB 1250, § 10; R.S.1943, (1994), § 79-4,173; Laws 1996, LB 900, § 63.

Cross References

Compulsory attendance, see sections 79-201 to 79-210.  
 Special Education Act, see section 79-1110.

**79-260 Notice; when given.**

Any statement, notice, recommendation, determination, or similar action specified in the Student Discipline Act shall be effectively given at the time written evidence thereof is delivered personally to or upon receipt of certified or registered mail or upon actual knowledge by a student or his or her parent or guardian.

**Source:** Laws 1976, LB 503, § 5; Laws 1994, LB 1250, § 11; R.S.1943, (1994), § 79-4,174; Laws 1996, LB 900, § 64.

**79-261 School board or board of education; powers; delegation of authority.**

(1) The school board or board of education may by rule amplify, supplement, or extend the procedures provided in the Student Discipline Act if such actions are not inconsistent with the act.

(2) Any action taken by the school board or board of education or by its employees or agents in a material violation of the act shall be considered null, void, and of no effect.

(3) The school board or board of education may authorize the delegation to other school officials of responsibilities directed to the principal or superintendent by the act.

**Source:** Laws 1976, LB 503, § 6; Laws 1994, LB 1250, § 12; R.S.1943, (1994), § 79-4,175; Laws 1996, LB 900, § 65.

School board not compelled to promulgate rules concerning distribution of literature. *Hernandez v. Hanson*, 430 F.Supp. 1154 (D. Neb. 1977).

**79-262 School board or board of education; rules and standards; establish; distribute and post; review with county attorney.**

(1) The school board or board of education shall establish and promulgate rules and standards concerning student conduct which are reasonably necessary to carry out or to prevent interference with carrying out any educational function, if such rules and standards are clear and definite so as to provide clear notice to the student and his or her parent or guardian as to the conduct prescribed, prohibited, or required under the rules and standards. Notwithstanding any other provisions contained in the Student Discipline Act, the school board or board of education may by rule specify a particular action as a sanction for particular conduct. Any such action must be otherwise authorized by section 79-258, 79-265, or 79-267. Any such rule shall be binding on all students, school officials, board members, and hearing examiners. Expulsion may be specified as a sanction for particular conduct only if the school board or board of education finds that the type of conduct for which expulsion is specified has the potential to seriously affect the health, safety, or welfare of the student, other students, staff members, or any other person or to otherwise seriously interfere with the educational process. On or before August 1 of each year, all school boards shall annually review in collaboration with the county attorney of the county in which the principal office of the school district is located the rules and standards concerning student conduct adopted by the school board and the provisions of section 79-267 to define conduct which the

principal or designee is required to report to law enforcement under section 79-293.

(2) All rules and standards established by school officials, other than the board, applicable to students shall not conflict with rules and standards adopted by the board. The board may change any rule or standard in accordance with policies which it may from time to time adopt.

(3) Rules or standards which form the basis for discipline, including the conduct required to be reported to law enforcement, shall be distributed to each student and his or her parent or guardian at the beginning of each school year, or at the time of enrollment if during the school year, and shall be posted in conspicuous places in each school during the school year. Changes in rules and standards shall not take effect until reasonable effort has been made to distribute such changes to each student and his or her parent or guardian.

**Source:** Laws 1976, LB 503, § 7; Laws 1983, LB 209, § 1; Laws 1994, LB 1250, § 13; R.S.1943, (1994), § 79-4,176; Laws 1996, LB 900, § 66; Laws 2018, LB1081, § 2.

School officials have authority to regulate and control student conduct on school grounds, but are not given authority to search off school grounds, including a vehicle parked off school grounds that is not associated with a school-sponsored event or activity. *J.P. v. Millard Public Schools*, 285 Neb. 890, 830 N.W.2d 453 (2013).

The statutory procedures to be followed in establishing and promulgating rules and standards of student conduct and in suspending students for violation of such rules embody all due process requirements set out in *Goss v. Lopez*, 419 U.S. 565 (1975). *Walker v. Bradley*, 211 Neb. 873, 320 N.W.2d 900 (1982).

**79-262.01 Behavioral intervention, behavioral management, classroom management, and removal of a student from a classroom in school; model policy; school district policy; training.**

(1) On or before July 1, 2025, the State Department of Education shall develop and adopt a model policy relating to behavioral intervention, behavioral management, classroom management, and removal of a student from a classroom in school. The model policy shall include appropriate training for school employees on behavioral intervention, behavioral management, classroom management, and removal of a student from a classroom in schools and how frequently such training shall be required. The length of such training shall be a reasonable amount as determined by each school board.

(2) On or before August 1, 2025, each school district shall develop and adopt a policy consistent with or comparable to the model policy developed by the State Department of Education pursuant to subsection (1) of this section, which shall be a requirement for accreditation in accordance with section 79-703. Such policy shall be filed with the Commissioner of Education. The policy developed and adopted by a school district pursuant to this subsection shall be included with any notifications required under the Student Discipline Act.

(3)(a) Beginning in school year 2026-27, each school district shall ensure that any school employee who has behavioral management responsibilities participates in behavioral awareness and intervention training consistent with the school district policy developed and adopted in accordance with subsection (2) of this section. Such training shall be provided by the school district or such school district's educational service unit. The length of such training shall be a reasonable amount as determined by the school board.

(b) Each school district shall, either independently, or through the educational service unit of which such school district is a member, develop and provide behavioral awareness and intervention training to employees from such school

who have behavioral management responsibilities. If such training is provided by the educational service unit, such training shall be available to any educational service unit employee and any member school district employee that works in a school and has behavioral management responsibilities. Such training shall be consistent with the model policy developed by the State Department of Education pursuant to subsection (1) of this section.

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

**Source:** Laws 2023, LB705, § 59; Laws 2024, LB1329, § 21.  
Effective date July 19, 2024.

**79-263 School district; policy regarding firearms; requirements.**

(1) Except as provided in section 79-265.01, each school district shall adopt a policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have knowingly and intentionally possessed, used, or transmitted a firearm on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or his or her designee, or at a school-sponsored activity or athletic event. For purposes of this section, firearm means a firearm as defined in 18 U.S.C. 921. The policy shall authorize the superintendent or the school board or board of education to modify the expulsion requirement on an individual basis.

(2) Each school district shall provide annually to the State Department of Education:

- (a) An assurance that the school district has in effect the policy required by subsection (1) of this section; and
- (b) A description of the circumstances surrounding any expulsions imposed under the policy required by subsection (1) of this section, including:
  - (i) The name of the school concerned;
  - (ii) The number of students expelled from the school; and
  - (iii) The types of weapons concerned.

**Source:** Laws 1995, LB 658, § 6; R.S.Supp.,1995, § 79-4,176.01; Laws 1996, LB 900, § 67; Laws 1996, LB 1050, § 3; Laws 2023, LB705, § 63.

**Cross References**

Gun-free school zones, see section 28-1204.04.

**79-264 Student; exclusion; circumstances; emergency exclusion; procedure.**

(1) Any student may be excluded from school in the following circumstances, subject to the procedural provisions of section 79-265, and, if longer than five school days, subject to the provisions of subsection (3) of this section:

- (a) If the student has a dangerous communicable disease transmissible through normal school contacts and poses an imminent threat to the health or safety of the school community; or
- (b) If the student’s conduct presents a clear threat to the physical safety of himself, herself, or others, or is so extremely disruptive as to make temporary removal necessary to preserve the rights of other students to pursue an education.

(2) Any emergency exclusion shall be based upon a clear factual situation warranting it and shall last not longer than is necessary to avoid the dangers described in subsection (1) of this section.

(3) If the superintendent or his or her designee determines that such emergency exclusion shall extend beyond five days, the school board shall adopt a procedure for a hearing to be held and a final determination made within ten school days after the initial date of exclusion. Such procedure shall substantially comply with the provisions of sections 79-266 to 79-287, and such provisions shall be modified only to the extent necessary to accomplish the hearing and determination within this shorter time period.

**Source:** Laws 1976, LB 503, § 8; R.S.1943, (1994), § 79-4,177; Laws 1996, LB 900, § 68.

**Cross References**

**Contagious or infectious disease,** child with symptoms, duty of school officials, see section 79-248.

Under subsection (1)(b) of this section, attendance by a public school student at a school where presence of a dangerous and communicable disease is confirmed, when the student is unimmunized against the disease, is conduct that presents a clear threat to the physical safety of the unimmunized student and other students and allows the unimmunized student's exclusion from school. *Maack v. School Dist. of Lincoln*, 241 Neb. 847, 491 N.W.2d 341 (1992).

**79-265 Principal; suspend student; grounds; procedure; written statement; conference.**

(1) Except as provided in section 79-265.01, the principal may deny any student the right to attend school or to take part in any school function for a period of up to five school days on the following grounds:

(a) Conduct constituting grounds for expulsion as set out in the Student Discipline Act; or

(b) Any other violation of rules and standards of behavior adopted under the act.

(2) Such short-term suspension shall be made only after the principal has made an investigation of the alleged conduct or violation and has determined that such suspension is necessary to help any student, to further school purposes, or to prevent an interference with school purposes.

(3) Before such short-term suspension takes effect, the student shall be given oral or written notice of the charges against him or her, an explanation of the evidence the authorities have, and an opportunity to present his or her version.

(4) Within twenty-four hours or such additional time as is reasonably necessary, not to exceed an additional forty-eight hours, following such suspension, the principal shall send a written statement to the student and his or her parent or guardian describing the student's conduct, misconduct, or violation of the rule or standard and the reasons for the action taken. The principal shall make a reasonable effort to hold a conference with the parent or guardian before or at the time the student returns to school and shall document such effort in writing.

**Source:** Laws 1976, LB 503, § 9; Laws 1994, LB 1250, § 14; R.S.1943, (1994), § 79-4,178; Laws 1996, LB 900, § 69; Laws 2023, LB705, § 64.

The statutory procedures to be followed in establishing and promulgating rules and standards of student conduct and in suspending students for violation of such rules embody all due process requirements set out in *Goss v. Lopez*, 419 U.S. 565 (1975). *Walker v. Bradley*, 211 Neb. 873, 320 N.W.2d 900 (1982).



**79-265.01 Pre-kindergarten through second grade students; suspension; prohibited; exceptions.**

(1) Except as provided in subsection (2) of this section, an elementary school shall not suspend a student in pre-kindergarten through second grade. Each school district shall develop a policy to implement this section which shall include disciplinary measures inside the school as an alternative to suspension.

(2) An elementary school may suspend a student in pre-kindergarten through second grade if such student brings a deadly weapon as defined in section 28-109 on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or his or her designee, or at a school-sponsored activity or athletic event.

**Source:** Laws 2023, LB705, § 60.

**79-265.02 Student; suspension; classwork and homework; guidelines.**

Any student who is suspended shall be given an opportunity to complete any classwork and homework missed during the period of suspension, including, but not limited to, examinations. Each school district shall develop and adopt guidelines that provide any such student with the opportunity to complete classwork and homework. Such guidelines shall not require the student to attend the school district’s alternative programs for expelled students in order to complete classwork and homework. The guidelines shall be provided to the student and a parent or guardian at the time of suspension.

**Source:** Laws 2023, LB705, § 61.

**79-266 Pre-expulsion procedures; when; expelled student; alternative assignments; suspension of enforcement; agreement between school boards; reinstatement; when; expungement; accept credits, conditions.**

(1) Beginning July 1, 1997, each school district shall have an alternative school, class, or educational program or the procedures of subsection (2) of this section available or in operation for all expelled students.

Any two or more school boards or boards of education may join together in providing alternative schools, classes, or educational programs. Any district may by agreement with another district send its suspended or expelled students to any alternative school, class, or educational program already in operation by such other district. An educational program may include, but shall not be limited to, individually prescribed educational and counseling programs or a community-centered classroom with experiences for the student as an observer or aide in governmental functions, as an on-the-job trainee, or as a participant in specialized tutorial experiences. Such programs shall include an individualized learning program to enable the student to continue academic work for credit toward graduation. The State Department of Education shall adopt and promulgate rules and regulations relating to alternative schools, classes, and educational programs.

(2) If a district does not provide an alternative school, class, or educational program for expelled students, the district shall follow the procedures in this subsection prior to expelling a student unless the expulsion was required by subsection (4) of section 79-283: A conference shall be called by a school

administrator and held to assist the district in the development of a plan with the participation of a parent or legal guardian, the student, a school representative, and a representative of either a community organization with a mission of assisting young people or a representative of an agency involved with juvenile justice. The plan shall be in writing and adopted by a school administrator and presented to the student and the parent or legal guardian. The plan shall (a) specify guidelines and consequences for behaviors which have been identified as preventing the student from achieving the desired benefits from the educational opportunities provided, (b) identify educational objectives that must be achieved in order to receive credits toward graduation, (c) specify the financial resources and community programs available to meet both the educational and behavioral objectives identified, and (d) require the student to attend monthly reviews in order to assess the student's progress toward meeting the specified goals and objectives.

(3) A school district that has expelled a student may suspend the enforcement of such expulsion unless the expulsion was required by subsection (4) of section 79-283. The suspension may be for a period not to exceed the length of the expulsion. As a condition of such suspended action, the school district may require participation in a plan pursuant to subsection (2) of this section or assign the student to a school, class, or educational program which the school district deems appropriate.

At the conclusion of such suspension period, the school district shall (a) reinstate any student who has satisfactorily participated in a plan pursuant to subsection (2) of this section or the school, class, or educational program to which such student has been assigned and permit the student to return to the school of former attendance or to attend other programs offered by the district or (b) if the student's conduct has been unsatisfactory, enforce the remainder of the expulsion action.

If the student is reinstated, the district may also take action to expunge the record of the expulsion action.

(4) At the conclusion of an expulsion, a school district shall reinstate the student and accept nonduplicative, grade-appropriate credits earned by the student during the term of expulsion from any Nebraska accredited institution or institution accredited by one of the six regional accrediting bodies in the United States.

**Source:** Laws 1994, LB 1250, § 16; Laws 1995, LB 658, § 2; R.S.Supp.,1995, § 79-4,179.01; Laws 1996, LB 900, § 70; Laws 1996, LB 1050, § 4; Laws 1997, LB 232, § 2; Laws 2023, LB705, § 65.

#### **79-266.01 Expelled student; enrollment in public school; when.**

If a student has been expelled from a public school in any school district in any state or from a private, denominational, or parochial school in any state and the student has not completed the terms of the expulsion, the student shall not be permitted to enroll in a public school in any school district until the school board of the district in which enrollment is sought approves, by a majority vote, the enrollment of the student. As a condition of enrollment, the school board may require attendance in an alternative school, class, or educational program pursuant to section 79-266 until the terms of the expulsion are completed. A student expelled from a private, denominational, or parochial

school or from a school in another state may not be prohibited from enrolling in a public school district in which the student resides or in which the student has been accepted pursuant to the enrollment option program for any period of time beyond the time limits placed on expulsion pursuant to the Student Discipline Act or for any expulsion for an offense for which expulsion is not authorized for a public school student under the act.

**Source:** Laws 1999, LB 195, § 2.

**79-267 Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.**

Except as provided in section 79-265.01, the following student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event:

(1) Use of violence, force, coercion, threat, intimidation, or similar conduct in a manner that constitutes a substantial interference with school purposes;

(2) Willfully causing or attempting to cause substantial damage to property, stealing or attempting to steal property of substantial value, or repeated damage or theft involving property;

(3) Causing or attempting to cause personal injury to a school employee, to a school volunteer, or to any student. Personal injury caused by accident, self-defense, or other action undertaken on the reasonable belief that it was necessary to protect some other person shall not constitute a violation of this subdivision;

(4) Threatening or intimidating any student for the purpose of or with the intent of obtaining money or anything of value from such student;

(5) Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a weapon;

(6) Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or an imitation controlled substance, as defined in section 28-401, a substance represented to be a controlled substance, or alcoholic liquor as defined in section 53-103.02 or being under the influence of a controlled substance or alcoholic liquor;

(7) Public indecency as defined in section 28-806, except that this subdivision shall apply only to students at least twelve years of age but less than nineteen years of age;

(8) Engaging in bullying as defined in section 79-2,137;

(9) Sexually assaulting or attempting to sexually assault any person if a complaint has been filed by a prosecutor in a court of competent jurisdiction alleging that the student has sexually assaulted or attempted to sexually assault any person, including sexual assaults or attempted sexual assaults which occur off school grounds not at a school function, activity, or event. For purposes of this subdivision, sexual assault means sexual assault in the first degree as defined in section 28-319, sexual assault in the second degree as defined in section 28-320, sexual assault of a child in the second or third degree as defined

in section 28-320.01, or sexual assault of a child in the first degree as defined in section 28-319.01, as such sections now provide or may hereafter from time to time be amended;

(10) Engaging in any other activity forbidden by the laws of the State of Nebraska which activity constitutes a danger to other students or interferes with school purposes; or

(11) A repeated violation of any rules and standards validly established pursuant to section 79-262 if such violations constitute a substantial interference with school purposes.

It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a student who is truant, tardy, or otherwise absent from required school activities.

**Source:** Laws 1976, LB 503, § 11; Laws 1983, LB 209, § 2; Laws 1988, LB 316, § 3; Laws 1994, LB 1250, § 17; Laws 1995, LB 658, § 3; R.S.Supp., 1995, § 79-4,180; Laws 1996, LB 900, § 71; Laws 1996, LB 1050, § 5; Laws 2006, LB 1199, § 83; Laws 2008, LB205, § 2; Laws 2010, LB861, § 83; Laws 2023, LB705, § 66.

#### Cross References

**Anabolic steroids**, prohibited acts, see section 79-296.

**Membership in secret school organization**, grounds for expulsion, see section 79-2,101 et seq.

This section limits a school district's jurisdiction to discipline students for possession of a controlled substance to conduct occurring on school property, at a school-sponsored activity or athletic event, or in a vehicle owned or used by the school for a school purpose. Driving to school was not a school-sponsored event and was not associated with a school-sponsored event, and a high school did not have implied authority to search a student's vehicle parked off campus. *J.P. v. Millard Public Schools*, 285 Neb. 890, 830 N.W.2d 453 (2013).

This section makes a clear distinction between conduct that occurs on school grounds and conduct that occurs off school grounds. *J.P. v. Millard Public Schools*, 285 Neb. 890, 830 N.W.2d 453 (2013).

This section sets the limits of a school's authority to discipline students for unlawfully possessing a controlled substance. *J.P. v. Millard Public Schools*, 285 Neb. 890, 830 N.W.2d 453 (2013).

The subsections of this section are coextensive and a particular instance of student conduct may constitute grounds for discipline under more than one subsection of the statute. A particular instance of student conduct may be punishable under a subsection of this section despite being excepted from the scope of another subsection, so long as the conduct meets the

requirements of the subsection under which the school district seeks to discipline the student. *Busch ex rel. Knave v. Omaha Pub. Sch. Dist.*, 261 Neb. 484, 623 N.W.2d 672 (2001).

Under subsection (1) of this section, the term "school purposes" includes the maintenance of an orderly and effective educational system. The use of violence or force to cause personal injury to a school employee who is attempting to prevent or break up a physical confrontation is a substantial interference with school purposes within the meaning of subsection (1) of this section. *Busch ex rel. Knave v. Omaha Pub. Sch. Dist.*, 261 Neb. 484, 623 N.W.2d 672 (2001).

Pursuant to subsection (3) of this section (formerly section 79-4,180), under its usual meaning, an injury caused by accident is one caused accidentally, unintentionally, or unexpectedly. *Spencer v. Omaha Pub. Sch. Dist.*, 252 Neb. 750, 566 N.W.2d 757 (1997).

This section (formerly section 79-4,180) lists the conduct which constitutes grounds for the use of long-term suspension, expulsion, or mandatory reassignment; it does not mandate the use of any one of these forms of punishment. *Kolesnick v. Omaha Pub. Sch. Dist.*, 251 Neb. 575, 558 N.W.2d 807 (1997).

### **79-268 Long-term suspension, expulsion, or mandatory reassignment; procedures; enumerated.**

If a principal makes a decision to discipline a student by long-term suspension, expulsion, or mandatory reassignment, the following procedures shall be followed:

(1) The decision as to recommend discipline shall be made within two school days after learning of the alleged student misconduct. On the date of the decision, a written charge and a summary of the evidence supporting such charge shall be filed with the superintendent. The school shall, within two school days after the decision, send written notice by registered or certified mail to the student and his or her parent or guardian informing them of the rights established under the Student Discipline Act;

(2) Such written notice shall include the following:

(a) The rule or standard of conduct allegedly violated and the acts of the student alleged to constitute a cause for long-term suspension, expulsion, or mandatory reassignment, including a summary of the evidence to be presented against the student;

(b) The penalty, if any, which the principal has recommended in the charge and any other penalty to which the student may be subject;

(c) A statement that, before long-term suspension, expulsion, or mandatory reassignment can be invoked, the student has a right to a hearing, upon request, and that if the student is suspended pending the outcome of the hearing, the student may complete classwork and homework, including, but not limited to, examinations, missed during the period of suspension pursuant to district guidelines which shall not require the student to attend the school district's alternative programs for expelled students in order to complete classwork or homework;

(d) A description of the hearing procedures provided by the act, along with procedures for appealing any decision rendered at the hearing;

(e) A statement that the principal, legal counsel for the school, the student, the student's parent, or the student's representative or guardian has the right (i) to examine the student's academic and disciplinary records and any affidavits to be used at the hearing concerning the alleged misconduct and (ii) to know the identity of the witnesses to appear at the hearing and the substance of their testimony; and

(f) A form on which the student, the student's parent, or the student's guardian may request a hearing, to be signed by such parties and delivered to the principal or superintendent in person or by registered or certified mail to the address provided on such form, as prescribed in sections 79-271 and 79-272;

(3) When a notice of intent to discipline a student by long-term suspension, expulsion, or mandatory reassignment is filed with the superintendent, the student may be suspended by the principal until the date the long-term suspension, expulsion, or mandatory reassignment takes effect, if the principal determines that the student must be suspended immediately to prevent or substantially reduce the risk of (a) interference with an educational function or school purpose or (b) a personal injury to the student himself or herself, other students, school employees, or school volunteers; and

(4) For purposes of this section, mandatory reassignment, regardless of its implementation date, shall be subject to the procedures of this section.

The Student Discipline Act does not preclude the student or the student's parent, guardian, or representative from discussing and settling the matter with appropriate school personnel prior to the time the long-term suspension, expulsion, or mandatory reassignment takes effect.

**Source:** Laws 1976, LB 503, § 12; Laws 1994, LB 1250, § 18; R.S.1943, (1994), § 79-4,181; Laws 1996, LB 900, § 72; Laws 2023, LB705, § 67.

**79-269 Long-term suspension, expulsion, or mandatory reassignment; hearing; procedure; hearing examiner; how designated; examination of records.**

(1)(a) If a hearing is requested within five school days after receipt of the notice as provided in section 79-268, the superintendent shall recommend

appointment of a hearing examiner within two school days after receipt of the hearing request.

(b) The student or the student's parent or guardian may request designation of a hearing examiner other than the hearing examiner recommended by the superintendent if notice of the request is given to the superintendent within two school days after receipt of the superintendent's recommended appointment. Upon receiving such request, the superintendent shall provide one alternative hearing examiner who is not an employee of the school district or otherwise currently under contract with the school district and whose impartiality may not otherwise be reasonably questioned. The superintendent may also provide an additional list of hearing examiners that may include hearing examiners employed by or under contract with the school district. The student or the student's parent or guardian shall, within five school days, select a hearing examiner to conduct the hearing who was recommended, provided as an alternative hearing examiner, or included on an additional list, if any, pursuant to this subdivision and shall notify the superintendent in writing of the selection. The superintendent shall appoint the selected hearing examiner upon receipt of such notice.

(c) For purposes of this subsection, individuals whose impartiality may be reasonably questioned shall include, but not be limited to, individuals who:

- (i) Have a personal bias or prejudice concerning a party;
- (ii) Have personal knowledge of evidentiary facts concerning the proceeding;
- (iii) Have served as legal counsel to the school district; or
- (iv) Have a spouse who is an employee of, or is under contract with, the school district.

(d) For purposes of this section a qualified hearing examiner shall be an individual who has knowledge of the Student Discipline Act, training in the requirements of the act, or experience conducting student hearings.

(e) The hearing examiner shall, within two school days after being appointed, give written notice to the principal, the student, and the student's parent or guardian of the time and place for the hearing.

(2) The hearing examiner shall be any person designated pursuant to subsection (1) of this section, if such person (a) has not brought the charges against the student, (b) shall not be a witness at the hearing, and (c) has no involvement in the charge. Expenses and fees of any hearing examiner, in connection with the hearing, shall be paid by the school board.

(3) The hearing shall be held within a period of five school days after appointment of the hearing examiner, but such time may be changed by the hearing examiner for good cause with consent of the parties. No hearing shall be held upon less than two school days' actual notice to the principal, the student, and the student's parent or guardian, except with the consent of all the parties.

(4) The principal or legal counsel for the school, the student, and the student's parent, guardian, or representative have the right to receive a copy of all records and written statements referred to in the Student Discipline Act as

well as the statement of any witness in the possession of the school board or board of education no later than forty-eight hours prior to the hearing.

**Source:** Laws 1976, LB 503, § 13; Laws 1994, LB 1250, § 19; R.S.1943, (1994), § 79-4,182; Laws 1996, LB 900, § 73; Laws 2023, LB705, § 68.

**79-270 Hearing examiner; duties.**

In addition to the other duties provided in the Student Discipline Act, the hearing examiner shall remain impartial throughout all deliberations. The hearing examiner shall be available prior to any hearing held pursuant to the act to answer any questions the principal, the student, or the student's parent or guardian may have regarding the nature and conduct of the hearing.

**Source:** Laws 1976, LB 503, § 14; Laws 1994, LB 1250, § 20; R.S.1943, (1994), § 79-4,183; Laws 1996, LB 900, § 74.

**79-271 Hearing; not requested within five days; recommended punishment; effect.**

If a hearing is not requested under sections 79-268 and 79-269 by the student or the student's parent or guardian within five school days following receipt of the written notice, the punishment recommended in the charge by the principal or his or her designee shall automatically go into effect upon the fifth school day following receipt of the written notice by the student or his or her parent or guardian as required in section 79-268.

**Source:** Laws 1976, LB 503, § 15; Laws 1994, LB 1250, § 21; R.S.1943, (1994), § 79-4,184; Laws 1996, LB 900, § 75.

**79-272 Hearing; requested within thirty days; effect.**

If a hearing is requested under sections 79-268 and 79-269 more than five school days but not more than thirty calendar days following the actual receipt of written notice, the hearing examiner shall be appointed and the hearing held pursuant to the requirements of section 79-269 but the imposed punishment shall continue in effect pending final determination.

**Source:** Laws 1976, LB 503, § 16; Laws 1994, LB 1250, § 22; R.S.1943, (1994), § 79-4,185; Laws 1996, LB 900, § 76; Laws 2023, LB705, § 69.

**79-273 Hearing; by whom attended; witnesses; student excluded; when.**

Any hearing conducted pursuant to the Student Discipline Act shall be attended by the hearing examiner, the student, the student's parent or guardian, the student's representative, if any, and counsel for the school board or board of education, if the hearing examiner or the superintendent deems it advisable. Witnesses shall be present only when they are giving information at the hearing. The student may be excluded in the discretion of the hearing examiner at times when the student's psychological evaluation or emotional problems are being discussed. The student's representative may be an attorney. The hearing examiner may exclude anyone from the hearing when his or her actions substantially disrupt an orderly hearing.

**Source:** Laws 1976, LB 503, § 17; Laws 1994, LB 1250, § 23; R.S.1943, (1994), § 79-4,186; Laws 1996, LB 900, § 77.

**79-274 Hearing; legal counsel; powers and duties.**

The school board or board of education, acting through the superintendent, may cause legal counsel to be present either for the purpose of acting as the designee of the principal or for the purpose of advising the hearing examiner in the conduct of the hearing requested under sections 79-268 and 79-269. Any legal counsel who acts as the designee of the principal in presenting the school's case against the student shall not advise the hearing examiner on the conduct of the hearing or later advise administrators or board members on the conduct of any appeal, but legal counsel may give advice on technical and procedural aspects of the school's presentation and may advise the hearing examiner and the board as long as the legal counsel does not act as the principal's designee in presenting the school's case.

**Source:** Laws 1976, LB 503, § 18; Laws 1994, LB 1250, § 24; R.S.1943, (1994), § 79-4,187; Laws 1996, LB 900, § 78.

**79-275 Hearing; student; testimony.**

At a hearing requested under sections 79-268 and 79-269, the student may speak in his or her own defense and may be questioned on his or her testimony, but he or she may choose not to testify and, in such case, shall not be threatened with punishment nor be later punished for refusal to testify.

**Source:** Laws 1976, LB 503, § 19; Laws 1994, LB 1250, § 25; R.S.1943, (1994), § 79-4,188; Laws 1996, LB 900, § 79.

**79-276 Hearing; evidence on student's conduct and records.**

At a hearing requested under sections 79-268 and 79-269, the principal shall present to the hearing examiner statements, in affidavit form, of any person having information about the student's conduct and the student's records but not unless such statements and records have been provided to the student or the student's parent, guardian, or representative at least forty-eight hours prior to the hearing. The information contained in such records shall be explained and interpreted, prior to or at the hearing, to the student, parent, guardian, or representative, upon request, by appropriate school personnel.

**Source:** Laws 1976, LB 503, § 20; Laws 1994, LB 1250, § 26; R.S.1943, (1994), § 79-4,189; Laws 1996, LB 900, § 80; Laws 2023, LB705, § 70.

**79-277 Hearing; rules of evidence or courtroom procedures; not applicable.**

In conducting the hearing requested under sections 79-268 and 79-269, the hearing examiner shall not be bound by the rules of evidence or any other courtroom procedure.

**Source:** Laws 1976, LB 503, § 21; Laws 1994, LB 1250, § 27; R.S.1943, (1994), § 79-4,190; Laws 1996, LB 900, § 81.

**79-278 Hearing; witnesses; testimony; cross-examination; availability of witnesses.**

(1) The student, the student's parent, guardian, or representative, the principal, or the hearing examiner may ask witnesses to testify at the hearing requested under sections 79-268 and 79-269. Such testimony shall be under oath, and the hearing examiner shall be authorized to administer the oath. The



hearing examiner shall make reasonable effort to assist the student or the student's parent, guardian, or representative in obtaining the attendance of witnesses. The school district shall make available those witnesses who have knowledge of or were involved in the alleged misconduct and subsequent discipline of the student if such witnesses are requested by the student or the student's parent, guardian, or representative and such witnesses are employees or under contract with the school district.

(2) The student, the student's parent, guardian, or representative, the principal, or the hearing examiner has the right to question any witness giving information at the hearing.

**Source:** Laws 1976, LB 503, § 22; Laws 1994, LB 1250, § 28; R.S.1943, (1994), § 79-4,191; Laws 1996, LB 900, § 82; Laws 2023, LB705, § 71.

**79-279 Hearing; witnesses; immunity.**

Any person giving evidence by written statement or in person at a hearing requested under sections 79-268 and 79-269 shall be given the same immunity from liability as a person testifying in a court case.

**Source:** Laws 1976, LB 503, § 23; Laws 1994, LB 1250, § 29; R.S.1943, (1994), § 79-4,192; Laws 1996, LB 900, § 83.

**79-280 Hearing; recorded; how paid.**

The proceedings of the hearing requested under sections 79-268 and 79-269 shall be recorded at the expense of the school district.

**Source:** Laws 1976, LB 503, § 24; Laws 1994, LB 1250, § 30; R.S.1943, (1994), § 79-4,193; Laws 1996, LB 900, § 84.

**79-281 Hearing; joint hearing; separate hearings; when.**

(1) When more than one student is charged with violating the same rule and having acted in concert and when the facts are substantially the same for all such students, a single hearing requested under sections 79-268 and 79-269 may be conducted for such students as a group if the hearing examiner believes that a single hearing is not likely to result in confusion and that no student shall have his or her interests substantially prejudiced by a single hearing.

(2) If during the conduct of the hearing the hearing examiner finds that a student's interests will be substantially prejudiced by a group hearing or that the hearing is resulting in confusion, the hearing examiner may order a separate hearing for any student.

**Source:** Laws 1976, LB 503, § 25; Laws 1994, LB 1250, § 31; R.S.1943, (1994), § 79-4,194; Laws 1996, LB 900, § 85.

**79-282 Hearing; hearing examiner; report; contents; review; notice; final disposition; how determined.**

(1) After a hearing requested under sections 79-268 and 79-269, a report shall be made by the hearing examiner of his or her findings and a recommendation of the action to be taken, which report shall be made to the superintendent and the student or the student's parent or guardian within ten calendar days after the hearing and shall explain, in terms of the needs of both the student and the school board, the reasons for the particular action recommended. Such recom-

mentation may range from no action, through the entire field of counseling, to long-term suspension, expulsion, mandatory reassignment, or an alternative educational placement under section 79-266.

(2) A review shall be made of the hearing examiner's report by the superintendent, who may change, revoke, or impose the sanction recommended by the hearing examiner but shall not impose a sanction more severe than that recommended by the hearing examiner. The superintendent shall notify the student or the student's parent or guardian of the superintendent's determination within five school days after receipt of the hearing examiner's report.

(3) The findings and recommendations of the hearing examiner, the determination by the superintendent, and any determination on appeal to the governing body, shall be made solely on the basis of the evidence presented at the hearing or, in addition, on any evidence presented on appeal.

**Source:** Laws 1976, LB 503, § 26; Laws 1994, LB 1250, § 32; Laws 1995, LB 658, § 4; R.S.Supp.,1995, § 79-4,195; Laws 1996, LB 900, § 86; Laws 2023, LB705, § 72.

**79-283 Hearing; final disposition; written notice; effect; period of expulsion; review; when; procedure; readmittance.**

(1) Written notice of the findings and recommendations of the hearing examiner and the determination of the superintendent under section 79-282 shall be made by certified or registered mail or by personal delivery to the student or the student's parent or guardian. Upon receipt of such written notice by the student, parent, or guardian, the determination of the superintendent shall take immediate effect unless the student or the student's parent or guardian appeals the written notice of determination of the superintendent pursuant to section 79-285.

(2) Except as provided in subsections (3) and (4) of this section, the expulsion of a student shall be for a period not to exceed the remainder of the semester in which it took effect unless the misconduct occurred (a) within ten school days prior to the end of the first semester, in which case the expulsion shall remain in effect through the second semester, or (b) within ten school days prior to the end of the second semester, in which case the expulsion shall remain in effect for summer school and the first semester of the following school year subject to the provisions of subsection (5) of this section. Such action may be modified or terminated by the school district at any time during the expulsion period. For purposes of this subsection, if the misconduct occurred prior to the last ten school days of the first semester and the expulsion takes effect in the second semester because the recommendation for expulsion was appealed to a hearing examiner or the school board or board of education, the length of the expulsion shall not exceed the number of days it would have been in effect had the appeal not been made.

(3) The expulsion of a student for (a) the knowing and intentional use of force in causing or attempting to cause personal injury to a school employee, school volunteer, or student except as provided in subdivision (3) of section 79-267 or (b) the knowing and intentional possession, use, or transmission of a dangerous weapon, other than a firearm, shall be for a period not to exceed the remainder of the school year in which it took effect if the misconduct occurs during the first semester. If the expulsion takes place during the second semester, the expulsion shall remain in effect for summer school and may remain in effect for

the first semester of the following school year. Such action may be modified or terminated by the school district at any time during the expulsion period.

(4) The expulsion of a student for the knowing and intentional possession, use, or transmission of a firearm, which for purposes of this section means a firearm as defined in 18 U.S.C. 921 as of January 1, 1995, shall be for a period as provided by the school district policy adopted pursuant to section 79-263. This subsection shall not apply to (a) the issuance of firearms to or possession of firearms by members of the Reserve Officers Training Corps when training or (b) firearms which may lawfully be possessed by the person receiving instruction under the immediate supervision of an adult instructor who may lawfully possess firearms.

(5) Any expulsion that will remain in effect during the first semester of the following school year shall be automatically scheduled for review before the beginning of the school year. The review shall be conducted by the hearing examiner after the hearing examiner has given notice of the review to the student and the student’s parent or guardian. This review shall be limited to newly discovered evidence or evidence of changes in the student’s circumstances occurring since the original hearing. This review may lead to a recommendation by the hearing examiner that the student be readmitted for the upcoming school year. If the school board or board of education or a committee of such board took the final action to expel the student, the student may be readmitted only by action of the board. Otherwise the student may be readmitted by action of the superintendent.

**Source:** Laws 1976, LB 503, § 27; Laws 1994, LB 1250, § 33; Laws 1995, LB 658, § 5; Laws 1996, LB 893, § 1; R.S.Supp.,1995, § 79-4,196; Laws 1996, LB 900, § 87; Laws 2023, LB705, § 73.

**79-284 Case record; contents.**

The record in a case under the Student Discipline Act shall consist of the charge, the notice, the evidence presented, the hearing examiner’s findings and recommendations, and the action of the superintendent. With respect to any appeal to a court or any subsequent appeal, the record shall consist, in addition, of any additional evidence taken and any additional action taken in the case.

**Source:** Laws 1976, LB 503, § 28; Laws 1994, LB 1250, § 34; R.S.1943, (1994), § 79-4,197; Laws 1996, LB 900, § 88.

**79-285 Hearing; appeal to school board or board of education; procedure.**

(1) The student or the student’s parent or guardian may, within seven school days following receipt of the written notice of the determination of the superintendent under section 79-282, appeal the superintendent’s determination to the school board or board of education by a written request which shall be filed with the secretary of the board or with the superintendent.

(2) A hearing shall be held before the school board or the board of education within a period of ten school days after it is requested, and such time for a hearing may be changed by mutual agreement of the student and superintendent, except that the hearing may be held before a committee of the school board or board of education of not less than three members. Such appeal shall be made on the record, except that new evidence may be admitted to avoid a

substantial threat of unfairness and such new evidence shall be recorded as provided in section 79-280.

**Source:** Laws 1976, LB 503, § 29; Laws 1983, LB 209, § 3; Laws 1994, LB 1250, § 35; R.S.1943, (1994), § 79-4,198; Laws 1996, LB 900, § 89.

**79-286 Hearing; appeal; school board or board of education; powers and duties.**

(1) After examining the record and taking new evidence pursuant to section 79-285, if any, the school board or board of education or the designated committee thereof may withdraw to deliberate privately upon such record and new evidence. Any such deliberation shall be held in the presence only of board members in attendance at the appeal proceeding but may be held in the presence of legal counsel who has not previously acted as the designee of the principal in presenting the school's case before the hearing examiner.

(2) If any questions arise during such deliberations which require additional evidence, the deliberating body may reopen the hearing to receive such evidence, subject to the right of all parties to be present.

(3) The board may alter the superintendent's disposition of the case if it finds the decision to be too severe but may not impose a more severe sanction.

**Source:** Laws 1976, LB 503, § 30; Laws 1994, LB 1250, § 36; R.S.1943, (1994), § 79-4,199; Laws 1996, LB 900, § 90.

**79-287 Hearing; appeal; board; final action.**

The final action of the board under section 79-286 shall be taken within three calendar days after the hearing and be evidenced by personally delivering or mailing by certified mail a copy of the board's decision to the student and his or her parent or guardian within three calendar days after the final action.

**Source:** Laws 1976, LB 503, § 31; Laws 1994, LB 1250, § 37; R.S.1943, (1994), § 79-4,200; Laws 1996, LB 900, § 91; Laws 2023, LB705, § 74.

**79-288 Final decision; judicial review; appeal to district court; other relief.**

Any person aggrieved by a final decision in a contested case under the Student Discipline Act, whether such decision is affirmative or negative in form, shall be entitled to judicial review under sections 79-288 to 79-292. Nothing in the act shall be deemed to prevent resort to other means of review, redress, or relief provided by law.

**Source:** Laws 1976, LB 503, § 32; Laws 1994, LB 1250, § 38; R.S.1943, (1994), § 79-4,201; Laws 1996, LB 900, § 92.

**79-289 Judicial review; procedure.**

(1) Proceedings for review under sections 79-288 to 79-292 shall be instituted by filing a petition in the district court of the county where the action is taken within thirty days after the service of the final decision by the school board or board of education under sections 79-286 and 79-287.

(2) All parties of record shall be made parties to the proceedings for review. The court, in its discretion, may permit other interested persons to intervene.

(3) Summons shall be served as in other actions, except that a copy of the petition shall be served upon the board together with the summons. Service of summons upon a duly elected officer of the board or the appointed secretary of the board shall constitute service on the board.

(4) The filing of the petition or the service of summons upon the board shall not stay enforcement of a decision, but the board may stay enforcement, or the court may order a stay after notice to such board of application therefor and upon such terms as it deems proper.

(5) The court may require the party requesting such stay to give bond in such amount and condition as the court may direct but only in cases involving injury or damage to person or property.

**Source:** Laws 1976, LB 503, § 33; Laws 1994, LB 1250, § 39; R.S.1943, (1994), § 79-4,202; Laws 1996, LB 900, § 93.

The requirements under subsection (3) of this section are mandatory conditions precedent for a district court to obtain subject matter jurisdiction over a proceeding for further review. *J.S. v. Grand Island Public Schools*, 297 Neb. 347, 899 N.W.2d 893 (2017).

A party aggrieved by a school board's decision under the student expulsion or suspension act may institute proceedings for review by the district court in the county where the action is taken. *Maack v. School Dist. of Lincoln*, 241 Neb. 847, 491 N.W.2d 341 (1992).

**79-290 Judicial review; transcript of record and proceedings; responsive pleading not required.**

Within fifteen days after service of the petition under section 79-289 or within such further time as the court for good cause shown may allow, the school board or board of education shall prepare and transmit to the court a certified transcript of the record which shall include the rules and regulations of the school board relied upon by the school district in its determination to suspend, reassign, or expel the student and the proceedings conducted before it, including the final decision sought to be reversed, vacated, or modified. The school board need not file any responsive pleading.

**Source:** Laws 1976, LB 503, § 34; Laws 1983, LB 209, § 4; Laws 1994, LB 1250, § 40; R.S.1943, (1994), § 79-4,203; Laws 1996, LB 900, § 94.

**79-291 Judicial review; conducted without a jury; grounds for judicial action.**

(1) The review under sections 79-288 to 79-292 shall be conducted by the court without a jury on the record.

(2) The court may affirm the decision of the school board or board of education, remand the case for further proceedings, or reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the board's decision is:

- (a) In violation of constitutional provisions;
- (b) In excess of the statutory authority or jurisdiction of the board;
- (c) Made upon unlawful procedure;
- (d) Affected by other error of law;
- (e) Unsupported by competent, material, and substantial evidence in view of the entire record as made on review; or

(f) Arbitrary or capricious.

**Source:** Laws 1976, LB 503, § 35; Laws 1994, LB 1250, § 41; R.S.1943, (1994), § 79-4,204; Laws 1996, LB 900, § 95.

The Student Discipline Act specifically grants the district court the power to reverse the decision of a board of education if a student's constitutional rights were violated. *J.P. v. Millard Public Schools*, 285 Neb. 890, 830 N.W.2d 453 (2013).

**79-292 Appeal.**

An aggrieved party may secure a review of any final judgment of the district court under sections 79-288 to 79-291 by appeal as provided in the Administrative Procedure Act.

**Source:** Laws 1976, LB 503, § 36; Laws 1991, LB 732, § 145; R.S.1943, (1994), § 79-4,205; Laws 1996, LB 900, § 96.

**Cross References**

**Administrative Procedure Act**, see section 84-920.

A party aggrieved by a district court's final judgment under the student suspension or expulsion act may appeal as provided in this section. *Maack v. School Dist. of Lincoln*, 241 Neb. 847, 491 N.W.2d 341 (1992).

**79-293 Nebraska Criminal Code violation; principal or principal's designee; notify law enforcement authorities; immunity.**

(1) The principal of a school or the principal's designee shall notify as soon as possible the appropriate law enforcement authorities, of the county or city in which the school is located, of any act of the student as provided in subsection (1) of section 79-262 which the principal or designee knows or suspects is a violation of the Nebraska Criminal Code.

(2) The principal, the principal's designee, or any other school employee reporting an alleged violation of the Nebraska Criminal Code shall not be civilly or criminally liable as a result of any report authorized by this section unless (a) such report was false and the person making such report knew or should have known it was false or (b) the report was made with negligent disregard for the truth or falsity of the report.

**Source:** Laws 1994, LB 1250, § 42; R.S.1943, (1994), § 79-4,205.01; Laws 1996, LB 900, § 97; Laws 2018, LB1081, § 3.

**Cross References**

**Nebraska Criminal Code**, see section 28-101.

**79-294 Removal of minor from school premises; release to peace officer; principal or other school official; duties; peace officer; duties; juvenile court review; when.**

When a principal or other school official releases a minor student to a peace officer as defined in section 49-801 for the purpose of removing the minor from the school premises, the principal or other school official shall take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to the officer and regarding the place to which the minor is reportedly being taken, except when a minor has been taken into custody as a victim of suspected child abuse, in which case the principal or other school official shall provide the peace officer with the address and telephone number of the minor's parent or guardian. The peace officer shall take immediate steps to notify the parent, guardian, or responsible relative of the minor that the minor is in custody and the place where he or she is being

held. If the peace officer has a reasonable belief that the minor would be endangered by a disclosure of the place where the minor is being held or that the disclosure would cause the custody of the minor to be disturbed, the peace officer may refuse to disclose the place where the minor is being held for a period not to exceed twenty-four hours. The peace officer shall, however, inform the parent, guardian, or responsible relative whether the child requires and is receiving medical or other treatment. The juvenile court shall review any decision not to disclose the place where the minor is being held at any subsequent detention hearing.

**Source:** Laws 1994, LB 1250, § 43; R.S.1943, (1994), § 79-4,205.02; Laws 1996, LB 900, § 98.

**79-295 Corporal punishment; prohibited.**

Corporal punishment shall be prohibited in public schools.

**Source:** Laws 1988, LB 316, § 1; R.S.1943, (1994), § 79-4,140; Laws 1996, LB 900, § 99.

Corporal punishment, as prohibited in this section, is reasonably understood to be the infliction of bodily pain as a penalty for disapproved behavior. The use of corporal punishment by a teacher, in violation of this section, may subject the teacher to

discipline for unprofessional conduct under section 79-824. *Daily v. Board of Ed. of Morrill Cty. School Dist. No. 62-0063*, 256 Neb. 73, 588 N.W.2d 813 (1999).

**79-296 Anabolic steroids; additional sanction.**

(1) In addition to the penalties provided in the Uniform Controlled Substances Act and section 79-267, any person under nineteen years of age who is a student at any public elementary, secondary, or postsecondary educational institution in this state who possesses, dispenses, delivers, or administers anabolic steroids as defined in section 28-401 in violation of the Uniform Controlled Substances Act may be prohibited from participating in any extra-curricular activities for not more than thirty consecutive days for the first offense. For the second or any subsequent offense, the student may be barred from participation in such activities for any period of time the institution deems appropriate pursuant to the written policy of the institution.

(2) Any sanction imposed pursuant to this section shall be in accordance with a written policy of the institution. The institution shall post the written policy in a conspicuous place and shall make a copy of the policy available to any student upon request.

**Source:** Laws 1990, LB 571, § 10; Laws 1992, LB 1019, § 122; R.S.1943, (1994), § 79-4,228; Laws 1996, LB 900, § 100.

**Cross References**

Penalties under Uniform Controlled Substances Act, see section 28-416.  
 Uniform Controlled Substances Act, see section 28-401.01.  
 Unlawful distribution of anabolic steroids to student, effect on employment, see section 48-232 et seq.

(h) STUDENT AND YOUTH ORGANIZATIONS

**79-297 Youth organization; provide information, services, and activities; conditions.**

- (1) For purposes of this section:
  - (a) School has the same meaning as in section 79-101;
  - (b) School district has the same meaning as in section 79-101; and

(c) Youth organization means a corporation chartered by Congress and listed in 36 U.S.C. Subtitle II, Part B, as of January 1, 2023.

(2)(a) Each school district shall, upon request, allow a representative of any youth organization to provide (i) oral or written information to the students of such school district regarding the youth organization and how such youth organization furthers the educational interests and civic involvement of students in a manner consistent with good citizenship and (ii) services and activities to any student of such school district who is a member of such youth organization.

(b) Each requesting youth organization shall be permitted to provide such information, services, and activities in a school building or on the school grounds of a school in each school district at least once during each school year.

(3) Each school district shall make a good-faith effort to select a date, time, and location for each requesting youth organization to provide such information, services, or activities that is mutually agreeable to the school district and to the youth organization. Oral information provided under subdivision (2)(a)(i) of this section may only be provided during noninstructional time.

(4) Prior to allowing a representative of a youth organization to provide information, services, or activities at a school pursuant to this section, such representative shall be subject to a background check. Except as otherwise provided by this section or by the rules and regulations of the Nebraska State Patrol, the parameters of the background check shall be determined by the relevant school district. A school district may prohibit any representative of a youth organization that has been convicted of a felony from providing information, services, or activities pursuant to this section at any school in such school district. Each representative of a youth organization is responsible for all costs associated with obtaining such background check.

(5) Nothing in this section shall be construed to supersede a parent's ability to exercise any rights such parent has under a school district policy established pursuant to section 79-531.

**Source:** Laws 2023, LB705, § 126.

**79-298 Repealed. Laws 2013, LB 410, § 24.**

**79-299 Repealed. Laws 2013, LB 410, § 24.**

**79-2,100 Repealed. Laws 2013, LB 410, § 24.**

**79-2,101 Public schools; membership in secret organizations, prohibited.**

It shall be unlawful for the pupils of any public school of this state to participate in or be members of any secret fraternity or secret organization that is in any degree a school organization.

**Source:** Laws 1909, c. 121, § 1, p. 461; R.S.1913, § 6945; C.S.1922, § 6527; C.S.1929, § 79-2104; R.S.1943, § 79-2114; Laws 1949, c. 256, § 163, p. 746; R.S.1943, (1994), § 79-4,125; Laws 1996, LB 900, § 105.

**79-2,102 Public schools; secret organizations; denial of school privileges; expulsion.**



Any school board or board of education may deny any or all school privileges to any regularly enrolled student who violates section 79-2,101 or may expel any such student for failure or refusal to comply with such section.

**Source:** Laws 1909, c. 121, § 2, p. 461; R.S.1913, § 6946; C.S.1922, § 6528; C.S.1929, § 79-2105; R.S.1943, § 79-2116; Laws 1949, c. 256, § 165, p. 747; R.S.1943, (1994), § 79-4,127; Laws 1996, LB 900, § 107.

**79-2,103 Repealed. Laws 2023, LB705, § 136.**

(i) STUDENT FILES

**79-2,104 Access to school files or records; limitation; fees; disciplinary material; removed and destroyed; when; sharing of student data, records, and information.**

(1) Any student in any public school or his or her parents, guardians, teachers, counselors, or school administrators shall have access to the school's files or records maintained concerning such student, including the right to inspect, review, and obtain copies of such files or records. No other person shall have access to such files or records except (a) when a parent, guardian, or student of majority age provides written consent or (b) as provided in subsection (3) of this section. The contents of such files or records shall not be divulged in any manner to any unauthorized person. All such files or records shall be maintained so as to separate academic and disciplinary matters, and all disciplinary material shall be removed and destroyed after a student's continuous absence from the school for a period of three years.

(2) Each public school may establish a schedule of fees representing a reasonable cost of reproduction for copies of a student's files or records for the parents or guardians of such student, except that the imposition of a fee shall not prevent parents of students from exercising their right to inspect and review the students' files or records and no fee shall be charged to search for or retrieve any student's files or records.

(3)(a) This section does not preclude authorized representatives of (i) auditing officials of the United States, (ii) auditing officials of this state, or (iii) state educational authorities from having access to student or other records which are necessary in connection with the audit and evaluation of federally supported or state-supported education programs or in connection with the enforcement of legal requirements which relate to such programs, except that, when collection of personally identifiable data is specifically authorized by law, any data collected by such officials with respect to individual students shall be protected in a manner which shall not permit the personal identification of students and their parents by other than the officials listed in this subsection. Personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, or enforcement of legal requirements.

(b) This section does not preclude or prohibit the disclosure of student records to any other person or entity which may be allowed to have access pursuant to the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as such act existed on February 1, 2013, and regulations adopted thereunder.

(4) The Legislature finds and declares that the sharing of student data, records, and information among school districts, educational service units, learning communities, and the State Department of Education, to the fullest extent practicable and permitted by law, is vital to advancing education in this state. Whenever applicable law permits the sharing of such student data, records, and information, each school district, educational service unit, and learning community shall comply unless otherwise prohibited by law. The State Board of Education shall adopt and promulgate rules and regulations providing for and requiring the uniform sharing of student data, records, and information among school districts, educational service units, learning communities, and the department.

**Source:** Laws 1973, LB 370, § 2; Laws 1979, LB 133, § 1; Laws 1986, LB 642, § 1; R.S.1943, (1994), § 79-4,157; Laws 1996, LB 900, § 108; Laws 2009, LB549, § 10; Laws 2013, LB262, § 1.

**79-2,105 School files or records; provided upon student's transfer.**

A copy of a public or private school's files or records concerning a student, including academic material and any disciplinary material relating to any suspension or expulsion, shall be provided at no charge, upon request, to any public or private school to which the student transfers.

**Source:** Laws 1986, LB 642, § 2; R.S.1943, (1994), § 79-4,157.01; Laws 1996, LB 900, § 109; Laws 2009, LB549, § 11.

(j) STUDENT PERSONNEL SERVICES

**79-2,106 Department; gifts, devises, and bequests; accept; loans; terms and conditions.**

The State Department of Education may accept, in trust, any gifts, devises, and bequests to be held and administered by the department for the purpose of making loans to worthy and needy students attending any college, university, or community college in this state. Such loans shall only be made to students whose parents are residents of Nebraska. Such loans shall be made on such terms and conditions as the State Board of Education shall prescribe or as may be imposed by the donor.

**Source:** Laws 1967, c. 522, § 1, p. 1743; Laws 1988, LB 802, § 16; R.S.1943, (1994), § 79-321.01; Laws 1996, LB 900, § 110.

**Cross References**

**State Board of Education**, duties with respect to devises, donations, or bequests, see section 79-318.

**79-2,107 Student personnel services; supervision.**

The State Board of Education shall provide supervision and leadership to assure that appropriate student personnel services are provided by the schools and other agencies of this state. Student personnel services shall include school guidance, counseling, testing services, and all other necessary and appropriate noninstructional services for students. The State Department of Education shall provide general supervision and coordination of student personnel services as such services relate to instructional and educational services provided by schools and other agencies.

**Source:** Laws 1971, LB 660, § 2; Laws 1993, LB 348, § 11; R.S.1943, (1994), § 79-321.03; Laws 1996, LB 900, § 111.

(k) NEBRASKA STUDENT EXCHANGE ACT

**79-2,108 Repealed. Laws 1997, LB 347, § 59.**

**79-2,109 Repealed. Laws 1997, LB 347, § 59.**

**79-2,110 Repealed. Laws 1997, LB 347, § 59.**

**79-2,111 Repealed. Laws 1997, LB 347, § 59.**

**79-2,112 Repealed. Laws 1997, LB 347, § 59.**

**79-2,113 Repealed. Laws 1997, LB 347, § 59.**

(l) EQUAL OPPORTUNITY IN EDUCATION

**79-2,114 Act, how cited.**

Sections 79-2,114 to 79-2,124 shall be known and may be cited as the Nebraska Equal Opportunity in Education Act.

**Source:** Laws 1982, LB 628, § 1; R.S.1943, (1994), § 79-3001; Laws 1996, LB 900, § 118.

**Cross References**

For applicability to postsecondary educational institutions, see sections 85-9,166 to 85-9,176.

**79-2,115 Terms, defined.**

For purposes of the Nebraska Equal Opportunity in Education Act, unless the context otherwise requires:

(1) Educational institution means any public preschool, any public elementary school or secondary school, any educational service unit, and the State Department of Education; and

(2) Governing board means the duly constituted board of any public school system of elementary or secondary schools, any educational service unit board, and the State Board of Education.

**Source:** Laws 1982, LB 628, § 2; R.S.1943, (1994), § 79-3002; Laws 1996, LB 900, § 119.

**79-2,116 Legislative findings; discriminatory practices enumerated.**

The Legislature finds and declares that it shall be an unfair or discriminatory practice for any educational institution to discriminate on the basis of sex in any program or activity. Such discriminatory practices include, but are not limited to, the following practices:

(1) Exclusion of a person or persons from participation in, denial of the benefits of, or subjection to discrimination in any academic, extracurricular, research, occupational training, or other program or activity, except athletic programs;

(2) Denial of comparable opportunity in intramural and interscholastic athletic programs;

(3) Discrimination among persons in employment and the conditions of such employment; and

(4) The application of any rule which discriminates on the basis of (a) the pregnancy of any person, (b) the marital status of any person, or (c) the condition of being a parent. Rules requiring certification of a physician's diagnosis and such physician's recommendation as to what activities a pregnant person may participate in are permissible. For purposes of this section marital status shall include the condition of being single, married, widowed, or divorced.

**Source:** Laws 1982, LB 628, § 3; R.S.1943, (1994), § 79-3003; Laws 1996, LB 900, § 120.

**79-2,117 Rules and regulations; institutions adopt; department; duties.**

The governing boards of educational institutions shall adopt and promulgate rules and regulations needed to carry out the Nebraska Equal Opportunity in Education Act. The State Department of Education shall provide such technical assistance in the development of these rules and regulations as may be requested by the governing board of any public school system of elementary or secondary schools. Governing boards of educational institutions, with the advice of staff, shall formulate activities and programs needed to carry out the act.

**Source:** Laws 1982, LB 628, § 4; R.S.1943, (1994), § 79-3004; Laws 1996, LB 900, § 121.

**79-2,118 Violation; complaint; filing; disposition; procedure; governing board; duties.**

(1) Any person aggrieved by a violation of the Nebraska Equal Opportunity in Education Act or any rule, regulation, or procedure adopted pursuant to the act may file a complaint with the governing board of the educational institution committing such violation. Such complaint shall be made in writing, under oath, within one hundred eighty days after such alleged violation, and shall set forth the claimant's address and the facts of such alleged violation with sufficient particularity as to permit the governing board to understand and investigate the conduct complained of.

(2) The governing board may take such action as may be necessary to correct such violation, including, but not limited to, (a) terminating the discriminatory practice or policy complained of and (b) awarding to the aggrieved person or persons such compensatory money damages as the particular facts and circumstances may warrant.

(3) The governing board shall dispose of the complaint and shall notify the claimant of its finding. All dispositions of such complaints shall be in writing and signed by the chief officer of the governing board, and a true copy of such disposition shall be mailed by certified mail, return receipt requested, to the claimant at the address set forth on the complaint or at such other address as may be filed by the claimant with the governing board. The claimant shall notify the governing board of any change of address, and the governing board has no duty to attempt to locate any claimant who has failed to advise such board of a change of address.

**Source:** Laws 1982, LB 628, § 5; R.S.1943, (1994), § 79-3005; Laws 1996, LB 900, § 122.

**79-2,119 Disposition of complaint; claimant; acceptance.**

If the claimant under section 79-2,118 elects to accept the written disposition of the complaint made by the governing board under such section, he or she shall notify such board in writing of his or her acceptance within sixty days after receipt of such disposition, at which time such disposition shall be deemed final and conclusive. A failure to notify the board of such acceptance within the time period provided in this section shall be deemed a rejection of such disposition.

**Source:** Laws 1982, LB 628, § 6; R.S.1943, (1994), § 79-3006; Laws 1996, LB 900, § 123.

**79-2,120 Disposition of complaint; claimant; rejection; court action authorized; limitation.**

If the claimant under section 79-2,118 elects not to accept the written disposition of such complaint made by the governing board under such section, he or she may, within one hundred eighty days after receipt of such disposition, file an original action in the district court of the judicial district where such educational institution is located, for equitable relief and compensatory money damages. If such action includes a claim for money damages, such claimant shall be entitled to a trial by jury as to such claim for damages, unless he or she expressly waives in writing such trial by jury.

**Source:** Laws 1982, LB 628, § 7; R.S.1943, (1994), § 79-3007; Laws 1996, LB 900, § 124.

**79-2,121 Complaint; failure of governing board to act; claimant's remedies.**

If the governing board fails to dispose of any written complaint filed pursuant to the Nebraska Equal Opportunity in Education Act within one hundred eighty days after the date of filing, such complaint may be withdrawn by the claimant and he or she may then proceed to file an original action in the district court of the judicial district where such educational institution is located pursuant to section 79-2,120. Such action must be filed within two years after the date of the filing of such complaint.

**Source:** Laws 1982, LB 628, § 8; R.S.1943, (1994), § 79-3008; Laws 1996, LB 900, § 125.

**79-2,122 Violation; complaint; prerequisite to other remedy.**

No original action asserting a violation of the Nebraska Equal Opportunity in Education Act may be filed in any district court unless a complaint asserting such violation is first filed with the governing board of the educational institution committing such discriminatory act or practice and disposed of or withdrawn as provided in the act.

**Source:** Laws 1982, LB 628, § 9; R.S.1943, (1994), § 79-3009; Laws 1996, LB 900, § 126.

**79-2,123 Nebraska Fair Employment Practice Act; complaint; applicability.**

The Nebraska Equal Opportunity in Education Act does not prohibit a person asserting a claim for discrimination in employment or the conditions thereof from filing a complaint pursuant to the Nebraska Fair Employment Practice Act. Filing a complaint pursuant to the Nebraska Fair Employment Practice Act constitutes a waiver of any right to seek relief pursuant to the Nebraska Equal

Opportunity in Education Act, and filing a complaint pursuant to the Nebraska Equal Opportunity in Education Act constitutes a waiver of any right to seek relief pursuant to the Nebraska Fair Employment Practice Act.

**Source:** Laws 1982, LB 628, § 10; R.S.1943, (1994), § 79-3010; Laws 1996, LB 900, § 127.

Cross References

Nebraska Fair Employment Practice Act, see section 48-1125.

**79-2,124 Act, how construed.**

The Nebraska Equal Opportunity in Education Act does not prohibit any educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes.

**Source:** Laws 1982, LB 628, § 11; R.S.1943, (1994), § 79-3011; Laws 1996, LB 900, § 128.

(m) STUDENT FEES

**79-2,125 Act, how cited.**

Sections 79-2,125 to 79-2,135 shall be known and may be cited as the Public Elementary and Secondary Student Fee Authorization Act.

**Source:** Laws 2002, LB 1172, § 1; Laws 2003, LB 249, § 2.

**79-2,126 Terms, defined.**

For purposes of the Public Elementary and Secondary Student Fee Authorization Act:

(1) Extracurricular activities means student activities or organizations which are supervised or administered by the school district, which do not count toward graduation or advancement between grades, and in which participation is not otherwise required by the school district;

(2) Governing body means a school board of any class of school district or an educational service unit board; and

(3) Postsecondary education costs means tuition and other fees associated with obtaining credit from a postsecondary educational institution. For a course in which students receive high school credit and for which they may also choose to apply for postsecondary education credit, the course shall be offered without charge for tuition, transportation, books, or other fees, except that if the student chooses to apply for postsecondary education credit, he or she may be charged tuition and other fees only associated with obtaining credits from a postsecondary educational institution.

**Source:** Laws 2002, LB 1172, § 2; Laws 2003, LB 249, § 3.

**79-2,127 Student fees authorized.**

Except as provided in section 79-2,133, a governing body may require and collect fees or other funds from or on behalf of students or require students to provide specialized equipment or specialized attire for any of the following purposes:

(1) Participation in extracurricular activities;

- (2) Admission fees and transportation charges for spectators attending extra-curricular activities;
- (3) Postsecondary education costs;
- (4) Transportation pursuant to sections 79-241, 79-605, and 79-611;
- (5) Copies of student files or records pursuant to section 79-2,104;
- (6) Reimbursement to the school district or educational service unit for school district or educational service unit property lost or damaged by the student;
- (7) Before-and-after-school or prekindergarten services offered pursuant to section 79-1104;
- (8) Summer school or night school;
- (9) Parking; and
- (10) Breakfast and lunch programs.

Except as provided in this section and sections 79-2,127.01, 79-2,131, and 79-2,132, a governing body shall not collect money pursuant to the Public Elementary and Secondary Student Fee Authorization Act from students.

**Source:** Laws 2002, LB 1172, § 3; Laws 2003, LB 249, § 4.

**79-2,127.01 Donations authorized.**

The Public Elementary and Secondary Student Fee Authorization Act does not limit the ability of a governing body to request donations of money, materials, equipment, or attire to defray costs if the request is made in such a way that it is clear that the request is not a requirement. The act does not prohibit a governing body from permitting students to supply materials for course projects.

**Source:** Laws 2003, LB 249, § 5.

**79-2,128 Extracurricular activities; incidentals furnished by students; authorized.**

A governing body may require students to furnish minor personal or minor consumable items for participation in extracurricular activities.

**Source:** Laws 2002, LB 1172, § 4; Laws 2003, LB 249, § 6.

**79-2,129 Nonspecialized attire furnished by students; authorized.**

A governing body may require students to furnish and wear nonspecialized attire meeting general written guidelines for specified courses and activities if the written guidelines are reasonably related to the course or activity.

**Source:** Laws 2002, LB 1172, § 5.

**79-2,130 Repealed. Laws 2003, LB 249, § 12.**

**79-2,131 Musical instruments furnished by students; fee authorized; when.**

A governing body may require students to furnish musical instruments for participation in optional music courses that are not extracurricular activities if the governing body provides for the use of a musical instrument without charge for any student who qualifies for free or reduced-price lunches under United States Department of Agriculture child nutrition programs. Participation in a

free-lunch program or reduced-price lunch program is not required to qualify for free or reduced-price lunches for purposes of this section. This section does not require a governing body to provide for the use of a particular type of musical instrument for any student. For musical extracurricular activities, a governing body may require fees or require students to provide specialized equipment, such as musical instruments, or specialized attire consistent with the Public Elementary and Secondary Student Fee Authorization Act.

**Source:** Laws 2002, LB 1172, § 7; Laws 2003, LB 249, § 7.

**79-2,132 School store; authorized.**

The Public Elementary and Secondary Student Fee Authorization Act does not preclude operation of a school store in which students may purchase food, beverages, and personal or consumable items. A school store need not have a permanent physical presence and may consist of providing order forms for students to voluntarily purchase items from the school or another vendor.

**Source:** Laws 2002, LB 1172, § 8; Laws 2003, LB 249, § 8.

**79-2,133 Fee waiver policy.**

Each governing body shall establish a policy waiving the fees and providing the items otherwise required to be provided by students pursuant to subdivision (1) of section 79-2,127 for students who qualify for free or reduced-price lunches under United States Department of Agriculture child nutrition programs. Participation in a free-lunch program or reduced-price lunch program is not required to qualify for free or reduced-price lunches for purposes of this section.

Each governing body may establish a policy for waiving fees or providing items otherwise required to be provided by students in other circumstances.

**Source:** Laws 2002, LB 1172, § 9; Laws 2003, LB 249, § 9.

**79-2,134 Student fee policy; hearing; procedure; contents.**

On or before August 1, 2002, and annually each year thereafter, each school board shall hold a public hearing at a regular or special meeting of the board on a proposed student fee policy, following a review of the amount of money collected from students pursuant to, and the use of waivers provided in, the student fee policy for the prior school year. The student fee policy shall be adopted by a majority vote of the school board and shall be published in the student handbook. The board shall provide a copy of the student handbook to every student, or to every household in which at least one student resides, at no cost to the student or household. The student fee policy shall include specific details regarding:

- (1) The general written guidelines for any nonspecialized attire required for specified courses and activities;
- (2) Any personal or consumable items a student will be required to furnish for participation in extracurricular activities;
- (3) Any specialized equipment or attire which a student will be required to provide for any extracurricular activity;
- (4) Any fees required from a student for participation in any extracurricular activity;



- (5) Any fees required for postsecondary education costs;
- (6) Any fees required for transportation costs pursuant to sections 79-241, 79-605, and 79-611;
- (7) Any fees required for copies of student files or records pursuant to section 79-2,104;
- (8) Any fees required for participation in before-and-after-school or prekindergarten services offered pursuant to section 79-1104;
- (9) Any fees required for participation in summer school or night school;
- (10) Any fees for breakfast and lunch programs; and
- (11) The waiver policy pursuant to section 79-2,133.

No fee, specialized equipment or attire, or nonspecialized attire may be required pursuant to the Public Elementary and Secondary Student Fee Authorization Act unless the maximum dollar amount of the fee, the specifications for the specialized equipment or attire, or the specifications for the nonspecialized attire are specified in the student fee policy approved by the board. Reimbursement pursuant to subdivision (6) of section 79-2,127 for property lost or damaged by a student may be required without specification in the student fee policy.

**Source:** Laws 2002, LB 1172, § 10; Laws 2003, LB 249, § 10.

#### **79-2,135 Student fee fund.**

Each school district that collects money from students pursuant to subdivisions (1), (3), and (8) of section 79-2,127 shall establish a student fee fund. For purposes of this section, student fee fund means a separate school district fund not funded by tax revenue, into which all money collected from students pursuant to such subdivisions shall be deposited and from which money shall be expended for the purposes for which it was collected from students.

Funds collected from another school district for providing summer school or night school instruction to a school district's students and the related expenditures for providing such instruction shall be accounted for in the general fund of the school district providing the instruction.

**Source:** Laws 2002, LB 1172, § 11; Laws 2003, LB 67, § 3.

#### (n) PART-TIME ENROLLMENT

#### **79-2,136 Part-time enrollment; extracurricular activities; school board; duties; section, how construed.**

(1) Each school board shall allow the part-time enrollment of students, for all courses selected by the students, who are residents of the school district pursuant to subsections (1) and (2) of section 79-215 and who are also enrolled in a private, denominational, or parochial school or in a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements and shall establish policies and procedures for such part-time enrollment. Such policies and procedures may include provisions permitting the part-time enrollment of such students who are not residents of such school districts to the extent permitted pursuant to section 79-215 and may require part-time students to follow school policies that apply to other students at any time the part-time student is present on school grounds or at a school-sponsored activity or

athletic event. Part-time enrollment shall not entitle a student to transportation or transportation reimbursements pursuant to section 79-611.

(2) Each school board shall establish policies and procedures to allow any student who is a resident of the school district pursuant to subsection (1) or (2) of section 79-215 and who is enrolled in a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements to participate in any extracurricular activities as defined in section 79-2,126, including, but not limited to, interschool competitions, to the same extent and subject to the same requirements, conditions, and procedures as a student enrolled in a public school governed by such board, except that any school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements shall set the standards for satisfactory academic performance for a student from the school to participate in extracurricular activities pursuant to this subsection and shall provide assurances of compliance with such academic standards.

(3) School board policies and procedures adopted pursuant to subsection (2) of this section (a) shall require any student participating in extracurricular activities pursuant to such subsection to be enrolled in no more and no less than five credit hours offered by the school district in any semester, (b) shall not allow any preference in the selection of a student for participation in an extracurricular activity based on such student's status as a full-time student in the school district, and (c) may require any student participating in extracurricular activities pursuant to such subsection to follow school policies that apply to other students when present on school grounds or at a school-sponsored activity or athletic event. Participation in extracurricular activities pursuant to subsection (2) of this section shall not entitle a student to transportation, except to and from practices and events to the same extent as public school students participating in such activities, or transportation reimbursement pursuant to section 79-611.

(4) Nothing in this section shall be construed to exempt any student from the compulsory attendance provisions of sections 79-201 to 79-210.

**Source:** Laws 2006, LB 821, § 1; Laws 2010, LB1071, § 4; Laws 2018, LB1081, § 4; Laws 2023, LB705, § 75.

(o) BULLYING PREVENTION AND EDUCATION

**79-2,137 School district; development and adoption of bullying prevention and education policy; review.**

(1) The Legislature finds and declares that:

- (a) Bullying disrupts a school's ability to educate students; and
- (b) Bullying threatens public safety by creating an atmosphere in which such behavior can escalate into violence.

(2) For purposes of this section, bullying means any ongoing pattern of physical, verbal, or electronic abuse on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose by a school employee or his or her designee, or at school-sponsored activities or school-sponsored athletic events.

(3) On or before July 1, 2009, each school district as defined in section 79-101 shall develop and adopt a policy concerning bullying prevention and education for all students.

(4) The school district shall review the policy annually.

**Source:** Laws 2008, LB205, § 1.

(p) LINDSAY ANN BURKE ACT AND DATING VIOLENCE

**79-2,138 Act, how cited.**

Sections 79-2,138 to 79-2,142 shall be known and may be cited as the Lindsay Ann Burke Act.

**Source:** Laws 2009, LB63, § 43.

**79-2,139 Legislative findings and intent.**

The Legislature finds and declares that all students have a right to work and study in a safe, supportive environment that is free from harassment, intimidation, and violence. The Legislature further finds that when a student is a victim of dating violence, his or her academic life suffers and his or her safety at school is jeopardized. The Legislature therefor finds and declares that a policy to create a better understanding and awareness of dating violence shall be adopted by each school district. It is the intent of the Legislature to require each school district to establish a policy for educating staff and students about dating violence.

**Source:** Laws 2009, LB63, § 44.

**79-2,140 Terms, defined.**

For purposes of the Lindsay Ann Burke Act, unless the context otherwise requires:

- (1) Dating partner means any person, regardless of gender, involved in an intimate relationship with another person primarily characterized by the expectation of affectionate involvement whether casual, serious, or long-term;
- (2) Dating violence means a pattern of behavior where one person uses threats of, or actually uses, physical, sexual, verbal, or emotional abuse, to control his or her dating partner;
- (3) Department means the State Department of Education; and
- (4) School district has the same meaning as in section 79-101.

**Source:** Laws 2009, LB63, § 45.

**79-2,141 Model dating violence policy; department; school district; duties; publication; staff training; redress under other law.**

(1) On or before March 1, 2010, the department shall develop and adopt a model dating violence policy to assist school districts in developing policies for dating violence.

(2) On or before July 1, 2010, each school district shall develop and adopt a specific policy to address incidents of dating violence involving students at school, which shall be made a part of the requirements for accreditation in accordance with section 79-703. Such policy shall include a statement that dating violence will not be tolerated.

(3) To ensure notice of a school district’s dating violence policy, the policy shall be published in any school district handbook, manual, or similar publica-

tion that sets forth the comprehensive rules, procedures, and standards of conduct for students at school.

(4) Each school district shall provide dating violence training to staff deemed appropriate by a school district's administration. The dating violence training shall include, but not be limited to, basic awareness of dating violence, warning signs of dating violence, and the school district's dating violence policy. The dating violence training may be provided by any school district or combination of school districts, an educational service unit, or any combination of educational service units. The length of such training shall be a reasonable amount as determined by each school board.

(5) Each school district shall inform the students' parents or legal guardians of the school district's dating violence policy. If requested, the school district shall provide the parents or legal guardians a copy of the school district's dating violence policy and relevant information.

(6) This section does not prevent a victim of dating violence from seeking redress under any other available law, either civil or criminal, and does not create or alter any existing tort liability.

**Source:** Laws 2009, LB63, § 46; Laws 2024, LB1329, § 22.  
Effective date July 19, 2024.

**79-2,142 School district; incorporate dating violence education.**

Each school district shall incorporate dating violence education that is age-appropriate into the school program. Dating violence education shall include, but not be limited to, defining dating violence, recognizing dating violence warning signs, and identifying characteristics of healthy dating relationships.

**Source:** Laws 2009, LB63, § 47.

(q) STATE SCHOOL SECURITY DIRECTOR

**79-2,143 State school security director; appointment.**

The position of state school security director is created within the State Department of Education. The Commissioner of Education shall appoint the director based on experience, knowledge, and skills in the field of school security.

**Source:** Laws 2014, LB923, § 1.

**79-2,144 State school security director; duties.**

The state school security director appointed pursuant to section 79-2,143 shall be responsible for providing leadership and support for safety and security for the public schools. Duties of the director include, but are not limited to:

(1) Collecting safety and security plans, required pursuant to rules and regulations of the State Department of Education relating to accreditation of schools, and other school security information from each school system in Nebraska. School districts shall provide the state school security director with the safety and security plans of the school district and any other security information requested by the director, but any plans or information submitted by a school district may be withheld by the department pursuant to subdivision (9) of section 84-712.05;

- (2) Recommending minimum standards for school security on or before January 1, 2016, to the State Board of Education;
- (3) Conducting an assessment of the security of each public school building, which assessment shall be completed by August 31, 2019;
- (4) Identifying deficiencies in school security based on the minimum standards adopted by the State Board of Education and making recommendations to school boards for remedying such deficiencies;
- (5) Establishing security awareness and preparedness tools and training programs for public school staff;
- (6) Establishing research-based model instructional programs for staff, students, and parents to address the underlying causes for violent attacks on schools;
- (7) Overseeing behavioral and mental health training, with a focus on suicide awareness and prevention in public schools pursuant to section 79-2,146;
- (8) Establishing tornado preparedness standards which shall include, but not be limited to, ensuring that every school conducts at least two tornado drills per year;
- (9) Responding to inquiries and requests for assistance relating to school security from private, denominational, and parochial schools;
- (10) Recommending curricular and extracurricular materials to assist school districts in preventing and responding to cyberbullying and digital citizenship issues; and
- (11) Carrying out the department's responsibilities under the School Safety and Security Reporting System Act.

**Source:** Laws 2014, LB923, § 2; Laws 2015, LB525, § 5; Laws 2017, LB512, § 8; Laws 2021, LB322, § 8; Laws 2022, LB1246, § 4; Laws 2023, LB705, § 76.

**Cross References**

School Safety and Security Reporting System Act, see section 79-3101.

**79-2,145 Rules and regulations.**

The State Board of Education, based on the recommendations of the state school security director appointed pursuant to section 79-2,143, may adopt and promulgate rules and regulations establishing minimum school security standards on or before July 1, 2016. Any rules or regulations that create a training requirement shall ensure that such training requirement shall be reasonable in length.

**Source:** Laws 2014, LB923, § 3; Laws 2024, LB1329, § 23.  
Effective date July 19, 2024.

**79-2,146 Behavioral and mental health training; suicide awareness and prevention training; requirements.**

(1) Beginning in school year 2023-24, all public school employees who interact with students and any other appropriate personnel, as determined by the school superintendent, shall receive behavioral and mental health training with a focus on suicide awareness and prevention training each year. The length of such training shall be a reasonable amount as determined by each school board. Such training may include, but need not be limited to, topics

such as identification of early warning signs and symptoms of behavioral and mental health issues in students, appropriate and effective responses for educators to student behavioral and mental health issues, trauma-informed care, and procedures for making students and parents and guardians aware of services and supports for behavioral and mental health issues. This training shall be provided within the framework of existing inservice training programs offered by the State Department of Education or as part of required professional development activities.

(2) The department, in consultation with organizations including, but not limited to, the Nebraska State Suicide Prevention Coalition, the Nebraska chapter of the American Foundation for Suicide Prevention, the Behavioral Health Education Center of Nebraska, the National Alliance on Mental Illness Nebraska, and other organizations and professionals with expertise in behavioral and mental health and suicide prevention, shall develop a list of approved training materials to fulfill the requirements of subsection (1) of this section. Such materials shall include training on how to identify appropriate mental health services, both within the school and also within the larger community, and when and how to refer youth and their families to those services. Such materials may include programs that can be completed through self-review of suitable behavioral and mental health and suicide prevention materials.

(3) The department may adopt and promulgate rules and regulations to carry out this section.

**Source:** Laws 2014, LB923, § 4; Laws 2023, LB705, § 77; Laws 2024, LB1329, § 24.  
Effective date July 19, 2024.

#### (r) PEDIATRIC CANCER SURVIVORS

##### **79-2,147 Legislative findings.**

The Legislature finds that:

(1) Pediatric cancer is the number one cause of death due to disease in the United States for children from birth to fourteen years of age;

(2) Nebraska ranks fifth in the United States in incidence of pediatric cancer;

(3) Eighty percent of children with the most common types of pediatric cancer will survive but the majority of pediatric cancer survivors will have chronic medical conditions for the rest of their lives; and

(4) Pediatric cancer survivors returning to school after successful treatment have specific cognitive, behavioral, physical, developmental, and social impairments that must be accommodated in order for the survivors to achieve their full educational potential.

**Source:** Laws 2015, LB511, § 1.

##### **79-2,148 Return-to-learn protocol; establishment.**

Each approved or accredited public, private, denominational, or parochial school shall establish a return-to-learn protocol for students returning to school after being treated for pediatric cancer. The return-to-learn protocol shall recognize that students who have been treated for pediatric cancer and re-

turned to school may need informal or formal accommodations, modifications of curriculum, and monitoring by medical or academic staff.

**Source:** Laws 2015, LB511, § 2.

(s) PREGNANT AND PARENTING STUDENTS

**79-2,149 Legislative findings.**

The Legislature finds and declares that:

(1) Pregnant and parenting students face enormous challenges to completing their education. The majority of young women who become pregnant in high school leave school which detrimentally impacts their financial, social, and educational future, as well as the future of their children;

(2) Schools have an obligation to keep pregnant and parenting students in school;

(3) Schools must remove overly restrictive or inflexible absence and leave policies so that pregnant students can attend prenatal medical appointments and parenting students can attend appointments for pediatric medical care, provide opportunities for students to make up school work or allow alternative education for students who become pregnant, and make accommodations for breast-feeding or milk expression; and

(4) Young women should not have to choose between completing their education and parenthood.

**Source:** Laws 2017, LB427, § 1.

**79-2,150 School board; duties.**

Beginning May 1, 2018, the school board of each school district shall adopt a written policy to be implemented at the start of the 2018-19 school year which provides for standards and guidelines to accommodate absences related to pregnancy and child care for pregnant and parenting students. Such policy shall include procedures and provisions in conformance with the minimum standards set forth in any model policy developed by the State Department of Education pursuant to section 79-2,151 or shall meet the minimum standards set forth in such section and may include any other procedures and provisions the school board deems appropriate.

**Source:** Laws 2017, LB427, § 2.

**79-2,151 State Department of Education; model policy; contents.**

On or before December 1, 2017, the State Department of Education may develop and distribute a model policy to encourage the educational success of pregnant and parenting students. At a minimum, such policy shall:

(1) Specifically identify procedures to anticipate and provide for student absences due to pregnancy and allow students to return to school and, if applicable, participate in extracurricular activities after pregnancy;

(2) Provide alternative methods to keep a pregnant or parenting student in school by allowing coursework to be accessed at home or accommodating tutoring visits, online courses, or a similar supplement to classroom attendance;

(3) Identify alternatives for accommodating lactation by providing students with private, hygienic spaces to express breast milk during the school day; and

(4) Establish a procedure for schools which do not have an in-school child care facility to assist student-parents by identifying child care providers for purposes of placing their children in child care facilities which, where possible, participate in the quality rating and improvement system and meet all of the quality rating criteria for at least a step-three rating pursuant to the Step Up to Quality Child Care Act and which collaborate with the school.

**Source:** Laws 2017, LB427, § 3.

**Cross References**

Step Up to Quality Child Care Act, see section 71-1952.

**79-2,152 State Department of Education; powers.**

In addition to the development of a model policy, the State Department of Education may offer training for teachers, counselors, and administrators on each school district's policy adopted under section 79-2,150 and the rights of pregnant and parenting students to receive equal access to education.

**Source:** Laws 2017, LB427, § 4.

(t) **STUDENT ONLINE PERSONAL PROTECTION ACT**

**79-2,153 Act, how cited.**

Sections 79-2,153 to 79-2,155 shall be known and may be cited as the Student Online Personal Protection Act.

**Source:** Laws 2017, LB512, § 1.

**79-2,154 Terms, defined.**

For purposes of the Student Online Personal Protection Act:

(1) Covered information means personally identifiable information or material or information that is linked to personally identifiable information or material in any medium or format that is not publicly available and is any of the following:

(a) Created or gathered by or provided to an operator by a student, or the student's parent or legal guardian, in the course of the student's, parent's, or legal guardian's use of the operator's site, service, or application for elementary, middle, or high school purposes;

(b) Created by or provided to an operator by an employee or agent of an elementary school, middle school, high school, or school district for elementary, middle, or high school purposes; or

(c) Gathered by an operator through the operation of its site, service, or application for elementary, middle, or high school purposes and personally identifies a student, including, but not limited to, information in the student's educational record or electronic mail, first and last name, home address, telephone number, electronic mail address, or other information that allows physical or online contact, discipline records, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security number, biometric information, disabilities, socioeconomic information, food purchases, political affiliations,



religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, or geolocation information;

(2) Interactive computer service has the definition found in 47 U.S.C. 230, as such section existed on January 1, 2017;

(3) Elementary, middle, or high school purposes means purposes that are directed by or that customarily take place at the direction of an elementary school, a middle school, a high school, a teacher, or a school district or that aid in the administration of school activities, including, but not limited to, instruction in the classroom or at home, administrative activities, collaboration between students, school personnel, or parents, and other purposes that are pursued for the use and benefit of the school or school district;

(4) Operator means, to the extent it is operating in this capacity, the operator of an Internet website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used primarily for elementary, middle, or high school purposes and was designed and marketed for elementary, middle, or high school purposes. This term does not include Internet websites, online services, online applications, or mobile applications operated by a postsecondary institution with a physical presence in Nebraska; and

(5) Targeted advertising means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student's online behavior, usage of applications, or covered information. It does not include advertising to a student at an online location based upon that student's current visit to that location, or in response to that student's request for information or feedback, without the retention of that student's online activities or requests over time for the purpose of targeting subsequent advertisements.

**Source:** Laws 2017, LB512, § 2.

**79-2,155 Operator; prohibited acts; duties; use or disclosure of covered information; applicability of section.**

(1) An operator shall not knowingly:

(a) Engage in targeted advertising on the operator's site, service, or application or targeted advertising on any other site, service, or application if the targeting of the advertising is based on any information, including covered information and persistent unique identifiers, that the operator has acquired because of the use of that operator's site, service, or application for elementary, middle, or high school purposes;

(b) Use covered information, including persistent unique identifiers, created or gathered by the operator's site, service, or application to amass a profile about a student except in furtherance of elementary, middle, or high school purposes. Amassing a profile does not include the collection and retention of account information that remains under the control of the student, the student's parent or guardian, or the elementary school, middle school, or high school;

(c) Sell or rent a student's covered information. This subdivision does not apply to (i) the purchase, merger, or other type of acquisition of an operator by another entity if the operator or successor entity complies with this section regarding such covered information or (ii) a national assessment provider if the provider secures the express written consent of the student or parent or

guardian of the student given in response to clear and conspicuous notice that access to covered information shall only be provided for purposes of obtaining employment, educational scholarships, financial aid, or postsecondary educational opportunities for such student; or

(d) Except as otherwise provided in subsection (3) of this section, disclose covered information unless the disclosure is made for the following purposes:

(i) In furtherance of the elementary, middle, or high school purpose of the site, service, or application, if the recipient of the covered information disclosed under this subdivision does not further disclose the covered information except to allow or improve operability and functionality of the operator's site, service, or application;

(ii) To ensure legal and regulatory compliance or protect against liability;

(iii) To respond to or participate in the judicial process;

(iv) To protect the safety or integrity of users of the site or other individuals or the security of the site, service, or application;

(v) For a school, educational, or employment purpose requested by the student or the student's parent or guardian if the covered information is not used or further disclosed for any other purpose; or

(vi) To a third party if the operator contractually prohibits the third party from using any covered information for any purpose other than providing the contracted service to or on behalf of the operator, prohibits the third party from disclosing any covered information provided by the operator with subsequent third parties, and requires the third party to implement and maintain reasonable security procedures and practices.

(2) Nothing in this section shall prohibit the operator from using covered information for maintaining, developing, supporting, improving, or diagnosing the operator's site, service, or application.

(3) An operator shall:

(a) Implement and maintain reasonable security procedures and practices appropriate to the nature of the covered information designed to protect that covered information from unauthorized access, destruction, use, modification, or disclosure; and

(b) Delete within a reasonable time period a student's covered information if the elementary school, middle school, high school, or school district requests deletion of covered information under the control of the elementary school, middle school, high school, or school district, unless a student or parent or guardian consents to the maintenance of the covered information.

(4) An operator may use or disclose covered information of a student under the following circumstances:

(a) If other provisions of federal or state law require the operator to disclose the covered information and the operator complies with the requirements of federal and state law in protecting and disclosing such covered information;

(b) As long as no covered information is used for advertising or to amass a profile on the student for purposes other than elementary, middle, or high school purposes, for legitimate research purposes as required by state or federal law and subject to the restrictions under applicable state and federal law or as allowed by state or federal law and in furtherance of elementary, middle, or high school purposes or postsecondary educational purposes; or

(c) To state or local educational agencies, including elementary schools, middle schools, high schools, and school districts, for elementary, middle, or high school purposes, as permitted by state or federal law.

(5) This section does not prohibit an operator from doing any of the following:

(a) Using covered information to improve educational products if such covered information is not associated with an identified student within the operator's site, service, or application or other sites, services, or applications owned by the operator;

(b) Using covered information that is not associated with an identified student to demonstrate or market the effectiveness of the operator's products or services;

(c) Sharing covered information that is not associated with an identified student for the development and improvement of educational sites, services, or applications;

(d) Using recommendation engines to recommend to a student either of the following:

(i) Additional content relating to an educational, other learning, or employment opportunity purpose within an online site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party; or

(ii) Additional services relating to an educational, other learning, or employment opportunity purpose within an online site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party; or

(e) Responding to a student's request for information or for feedback without the information or response being determined in whole or in part by payment or other consideration from a third party.

(6) This section does not:

(a) Limit the authority of a law enforcement agency to obtain any content or covered information from an operator as authorized by law or under a court order;

(b) Limit the ability of an operator to use student data, including covered information, for adaptive learning or customized student learning purposes;

(c) Apply to general audience Internet websites, general audience online services, general audience online applications, or general audience mobile applications, even if login credentials created for an operator's site, service, or application may be used to access those general audience sites, services, or applications;

(d) Limit service providers from providing Internet connectivity to schools or a student and his or her family;

(e) Prohibit an operator of an Internet website, online service, online application, or mobile application from marketing educational products directly to parents if the marketing did not result from the use of covered information obtained by the operator through the provision of services covered under this section;

(f) Impose a duty upon a provider of an electronic store, network gateway, marketplace, or other means of purchasing or downloading software or appli-

cations to review or enforce compliance with this section on those applications or software;

(g) Impose a duty upon a provider of an interactive computer service to review or enforce compliance with this section by third-party content providers; or

(h) Prohibit a student from downloading, exporting, transferring, saving, or maintaining his or her own student data or documents.

**Source:** Laws 2017, LB512, § 3.

(u) MILITARY RECRUITERS ACCESS TO STUDENTS

**79-2,156 Military recruiter; access to routine directory information; school board policy; parent or guardian; request to not release information.**

(1) The school board of each school district shall adopt a policy to provide, except as provided in subdivision (2)(a) of this section, access to routine directory information for each student in a high school grade upon a request made by a military recruiter.

(2)(a) Except as provided in subsection (5) of this section, a parent or guardian of a student in a high school grade may submit a written request to the school district that routine directory information for such student shall not be released for purposes of subsection (1) of this section without prior written consent of the parent or guardian. Upon receiving such request, a school district shall not release the routine directory information of such student for such purposes without the prior written consent of the parent or guardian.

(b) Within thirty days prior to or following the commencement of each school year and, for a new student who enrolls after the commencement of a school year, within thirty days following such enrollment, each school district shall notify the parents and guardians of each student in a high school grade enrolled in the school district of the option, except as provided in subsection (5) of this section, to make a request pursuant to subdivision (2)(a) of this section.

(3) The school board of each school district shall adopt a policy to provide military recruiters the same access to a student in a high school grade as is provided to postsecondary educational institutions or to prospective employers of such students.

(4) Nothing in this section shall be construed to allow a school board to adopt a policy to withhold access to routine directory information from a military recruiter by implementing any process that differs from the written consent request process under subdivision (2)(a) of this section.

(5) For purposes of this section, when a student reaches eighteen years of age, the permission or consent required of and the rights accorded to the parents or guardians of such student under this section shall only be required of and accorded to such student. Within thirty days prior to or following the commencement of each school year and, for a new student who enrolls after the commencement of a school year, within thirty days following such enrollment, each school district shall notify each student who is at least eighteen years of age or who will reach eighteen years of age during such school year of the option to make a request pursuant to subdivision (2)(a) of this section and that any such request made previously by a parent or guardian for such student expires upon the student reaching eighteen years of age.

(6) For purposes of this section, routine directory information means a student's name, address, and telephone number.

(7) Except as otherwise provided by federal law, nothing in this section shall be construed to limit the applicability of the federal Family Educational Rights and Privacy Act of 1974, as amended, 20 U.S.C. 1232g, as such act existed on January 1, 2019.

**Source:** Laws 2019, LB575, § 1.

(v) CHILD ABUSE OR NEGLECT

**79-2,157 Poster regarding reports of child abuse or neglect; authorized.**

(1) Each public school in Nebraska may post in a clearly visible location in a public area of the school that is readily accessible to students a sign in English and Spanish, using terminology appropriate for posting in schools, that contains the statewide toll-free number established by the Department of Health and Human Services pursuant to section 28-711 to receive reports of child abuse or neglect. In lieu of displaying the poster, the school may post a link to the poster on its website.

(2) The State Department of Education may contract with an appropriate entity to create the poster described in subsection (1) of this section. The department shall ensure that schools have free and easy access to a digital image of such poster.

**Source:** Laws 2019, LB281, § 1.

(w) DRESS CODE AND GROOMING POLICY

**79-2,158 Dress code and grooming policy; school board; adopt; enforcement; requirements.**

(1) On or before July 1, 2025, the school board of each school district shall adopt a written dress code and grooming policy to be implemented at the start of the 2025-26 school year that is consistent with the model policy developed by the State Department of Education in accordance with section 79-2,159 and may include any other procedures and provisions the school board deems appropriate.

(2) Enforcement of violations of the written dress code and grooming policy shall:

(a) Be treated as minor on the continuum of school rule violations and shall not constitute student conduct subject to long-term suspension, expulsion, or mandatory reassignment as provided in section 79-267;

(b) Not require the student to miss substantial classroom time, instruction time, or school activities; and

(c) Not, under any circumstance, allow an administrator, teacher, other member of the staff, or contractor to permanently or temporarily alter or cut a student's hair.

(3) No student shall be disproportionately affected by a dress code or grooming policy enforcement because of the student's gender, race, color, religion, disability, or national origin.

**Source:** Laws 2023, LB298, § 2.

**79-2,159 Model dress code and grooming policy; department; duties; health and safety standard; requirements.**

(1) For purposes of this section:

(a) Department means the State Department of Education;

(b) National origin includes characteristics associated with actual or perceived place of birth, ancestry, or ethnicity including, but not limited to, skin color, natural and protective hairstyles, headdress, tribal regalia, and attire;

(c) Natural and protective hairstyles include, but are not limited to, braids, locks, twists, tight coils or curls, cornrows, bantu knots, afros, weaves, wigs, or head wraps;

(d) Race includes characteristics associated with actual or perceived race, ancestry, or ethnicity including, but not limited to, skin color, natural and protective hairstyles, tribal regalia, and attire;

(e) Religious attire and characteristics associated with religion includes, but is not limited to, natural and protective hairstyles, tribal regalia, burkas, hijabs, head wraps, or other headdress, adornments, and clothing garments used to express or observe one's religious beliefs; and

(f) Tribal regalia includes natural and protective hairstyles and traditional garments, jewelry, or other adornments or similar objects of cultural significance worn by members of an indigenous tribe of the United States or another country. Tribal regalia does not include any dangerous weapon or, except in compliance with an appropriate federal permit, any object that is otherwise prohibited by federal law.

(2) On or before December 1, 2024, the department shall develop and distribute a model dress code and grooming policy for schools that facilitates and encourages an inclusive and positive learning environment while complying with any applicable health or safety law, rule, regulation, ordinance, or resolution. Such model policy shall not:

(a) Target, disproportionately impact, discriminate, or be applied in a discriminatory manner against any students on the basis of race, religion, sex, disability, or national origin;

(b) Prohibit a student from wearing attire, including religious attire, natural and protective hairstyles, adornments or other characteristics associated with race, national origin, or religion; or

(c) Require a student's hair be permanently or temporarily altered.

(3) Such model policy shall include a statement that specifies that enforcement of a violation of such policy shall be done in a manner that is consistent with a school's overall discipline plan and in a consistent manner.

(4) The department may develop as part of the dress code and grooming policy a health and safety standard that allows for the regulation of characteristics associated with race, national origin, or religion in the dress code and grooming policy under certain circumstances. Such standard shall:

(a) Demonstrate that without the implementation of such standard, it is reasonably certain that the health and safety of the student or another individual will be impaired;

(b) Require adoption of the standard for nondiscriminatory reasons;

(c) Require that the standard be applied equally;

(d) Require that the school engage in a good-faith effort to reasonably accommodate the student and notify the student’s parent or guardian, in a language that such parent or guardian understands, of such an attempt to accommodate the student’s appearance or any attire, tribal regalia, hairstyles, adornment, or other characteristic associated with race, national origin, or religion;

(e) Provide a process to obtain consent from a student’s parent or guardian prior to altering a student’s appearance or removing or altering a student’s attire, tribal regalia, hairstyle, adornment, or other characteristic associated with race, national origin, or religion; and

(f) Provide a process to ensure records are kept on each effort to reasonably accommodate a student’s appearance, attire, hairstyle, adornment, or other characteristics associated with race, national origin, or religion occurring at school, on school grounds, or at a school-sponsored event and ensure that such records allow for analysis of related data and delineate:

(i) The reason for such student’s referral relating to the dress code and grooming policy; and

(ii) Federally identified demographic characteristics of such student.

**Source:** Laws 2023, LB298, § 3.

**79-2,160 Tribal regalia; permitted; school policy.**

(1) A person who is a member of an indigenous tribe of the United States or another country and is a student attending an approved or accredited public school may wear tribal regalia in any public or private location where the person is otherwise authorized to be on such school grounds or at any school function. Nothing in this section limits the authority of administrative and teaching personnel to regulate student behavior as provided in section 79-258 or the authority of a school to regulate student behavior to further school purposes or to prevent interference with the educational process.

(2) A school may adopt a policy to accommodate this section. Such policy may specify the characteristics of any garment, jewelry, other adornment, or object that such school finds will endanger the safety of a student or others or interfere with school purposes or the educational process if worn by a student during a specified activity.

(3) For purposes of this section, tribal regalia means traditional garments, jewelry, other adornments, or similar objects of cultural significance worn by members of an indigenous tribe of the United States or another country. Tribal regalia does not include any firearm or other dangerous weapon. Tribal regalia also does not include, except in compliance with an appropriate federal permit, any object that is otherwise prohibited by federal law.

**Source:** Laws 2024, LB43, § 6.

Operative date July 1, 2025.

(x) RIGHT TO REPEAT GRADE

**79-2,161 Right to repeat grade; reasons; procedure.**

(1) For purposes of this section:

(a) Academic needs means that a child is at least one year below grade level and behind the child’s typically developing peers in reading, English, and

language arts such that the child does not possess the necessary academic skills required to succeed in reading, English, and language arts at grade level for the next grade the student would otherwise advance to;

(b) Excessive absenteeism means that the child was absent fifty percent or more of the school year and includes excused absences, unexcused absences, and absences due to suspension or expulsion. Absences due to approved school-related activities, such as field trips, competitions, athletic events, and testing, are not included; and

(c) Illness means that the child experienced a severe mental or physical illness resulting in hospitalization of two or more weeks during the school year.

(2)(a) A parent or guardian shall have the right to have such parent’s or guardian’s child repeat a grade in kindergarten through fourth grade due to academic needs, illness, or excessive absenteeism.

(b) A parent or guardian shall have the right to have such parent’s or guardian’s child repeat a grade in fifth through twelfth grade due to excessive absenteeism.

(3) A parent or guardian requesting such parent’s or guardian’s child repeat a grade pursuant to subdivision (2)(a) or (b) of this section shall request and have a meeting with the school district superintendent or the superintendent’s designee of the school district such child attends to discuss the parent’s or guardian’s decision to have the child repeat a grade and such parent or guardian shall provide evidence of academic needs, illness, or excessive absenteeism that would authorize the parent or guardian to have such child repeat a grade. At such meeting, the superintendent or superintendent’s designee shall identify any alternative educational opportunities, including remedial instruction if applicable, and verify any special education supports available to such child. If the child’s parent or guardian still intends to have such child repeat a grade, such parent or guardian shall complete a form prescribed by the State Department of Education and return such form to the school district such child attends. Upon completion of the form and if all requirements pursuant to this subsection are met, the school district shall have the child repeat the child’s grade for the next school year.

(4) A school district shall submit any form filed with such school district relating to a request by a child’s parent or guardian to have such child repeat a grade with the State Department of Education. Data regarding such students shall be collected under subsection (2) of section 79-528.

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

**Source:** Laws 2024, LB71, § 11.  
Effective date July 19, 2024.

**ARTICLE 3**

**STATE DEPARTMENT OF EDUCATION**

**Cross References**

Funds, services, commodities, and equipment made available by federal government to be channeled through office of Commissioner of Education, see section 81-910 et seq.

(a) DEPARTMENTAL STRUCTURE AND DUTIES

Section  
79-301. State Department of Education; State Board of Education; Commissioner of Education; powers; duties; vacancy, absence, or incapacity; deputy commissioner; duties.



## Section

- 79-302. Regulations; reports; duty of department to prescribe.  
 79-302.01. Statewide and school district data; access; State Department of Education; establish and maintain website.  
 79-303. State Department of Education Revolving Fund; created; use; investment.  
 79-303.01. State Department of Education; Department of Health and Human Services; Office of Probation Administration; State Court Administrator; sharing data relevant to court-involved students; memorandum of understanding; policies and procedures; consultant recommendations; reports.

## (b) COMMISSIONER OF EDUCATION

- 79-304. Commissioner of Education; qualifications.  
 79-305. Commissioner of Education; office; powers; duties.  
 79-306. Commissioner of Education; State Department of Education; administrative head; duties.  
 79-307. School districts; numbering.  
 79-308. Teacher's institutes and conferences; organization; supervision; grant funding to implement evaluation model and training.  
 79-309. Public schools; duty to visit and supervise.  
 79-309.01. Commissioner of Education; duties; use of funds.

## (c) STATE BOARD OF EDUCATION

- 79-310. State Board of Education; members; election.  
 79-311. State Board of Education; districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.  
 79-312. State Board of Education districts; population figures and maps; basis.  
 79-313. State Board of Education; members; qualifications.  
 79-314. State Board of Education; members; vacancies; how filled.  
 79-315. State Board of Education; members; officers; Commissioner of Education; appointment; term; removal; seal; powers.  
 79-316. State Board of Education; members; impeachment; grounds.  
 79-317. State Board of Education; meetings; open to public; exceptions; compensation and expenses.  
 79-318. State Board of Education; powers; duties.  
 79-319. State Board of Education; additional powers; enumerated.  
 79-320. State Board of Education; liability insurance; for whom.  
 79-321. Repealed. Laws 2017, LB512, § 41.

## (a) DEPARTMENTAL STRUCTURE AND DUTIES

**79-301 State Department of Education; State Board of Education; Commissioner of Education; powers; duties; vacancy, absence, or incapacity; deputy commissioner; duties.**

(1) The State Department of Education provided for in Article VII, section 2, of the Constitution of Nebraska shall consist of a State Board of Education and a Commissioner of Education. The State Department of Education shall have general supervision and administration of the school system of the state and of such other activities as the Legislature may direct.

(2) The State Board of Education, acting as a unit, shall be the policy-forming, planning, and evaluative body for the state school program. Except in the appointment of a Commissioner of Education, the board shall deliberate and take action with the professional advice and counsel of the Commissioner of Education.

(3) The Commissioner of Education shall be the executive officer of the State Board of Education and the administrative head of the professional, technical, and clerical staff of the State Department of Education. The commissioner shall act under the authority of the State Board of Education. The commissioner shall have the responsibility for carrying out the requirements of law and of

board policies, standards, rules, and regulations and for providing the educational leadership and services deemed necessary by the board for the proper conduct of the state school program. In the event of vacancy in office or the absence or incapacity of the Commissioner of Education, a deputy commissioner shall carry out any duties imposed by law upon the commissioner.

**Source:** Laws 1953, c. 320, § 1, p. 1053; Laws 1971, LB 220, § 1; R.S.1943, (1994), § 79-321; Laws 1996, LB 900, § 129; Laws 1997, LB 347, § 6; Laws 2015, LB525, § 6.

**Cross References**

**Surplus property of federal government**, assist public schools in obtaining, see sections 81-910 to 81-912.

**79-302 Regulations; reports; duty of department to prescribe.**

The State Department of Education shall prescribe forms for making all reports and regulations for all proceedings under the general school laws of the state. The department may establish procedures for submission of forms on electronic media or via telecommunications systems. The department may require the use of a personally identifiable number, which it will assign, on electronic data submissions in lieu of requiring authorized signatures on paper forms.

**Source:** Laws 1881, c. 78, subdivision VIII, § 5, p. 363; R.S.1913, § 6902; C.S.1922, § 6478; C.S.1929, § 79-1605; R.S.1943, § 79-1608; Laws 1949, c. 256, § 28, p. 701; Laws 1965, c. 513, § 1, p. 1633; Laws 1993, LB 348, § 10; R.S.1943, (1994), § 79-307; Laws 1996, LB 900, § 130.

Under former law, authority to make rules was an unconstitutional delegation of legislative authority. School Dist. No. 39 of Washington County v. Decker, 159 Neb. 693, 68 N.W.2d 354 (1955).

**79-302.01 Statewide and school district data; access; State Department of Education; establish and maintain website.**

The State Department of Education shall establish and maintain a website that allows the public to access statewide and school district data regarding, at a minimum: Total receipts and receipts classified by source as local, county, state, federal, or other; total expenditures and expenditures classified by functions as determined by the department; cost per pupil as determined pursuant to section 79-598; and performance as reported pursuant to section 79-760.06.

**Source:** Laws 2021, LB528, § 5.

**79-303 State Department of Education Revolving Fund; created; use; investment.**

(1) The State Department of Education may provide for a system of charges for services rendered by the administrative support programs of the department to all other programs within the department. Such charges received for administrative support services shall be credited to the State Department of Education Revolving Fund, which fund is hereby created. Expenditures shall be made from such fund to finance the operation of the administrative support programs of the department in accordance with appropriations made by the Legislature.

(2) The Director of Administrative Services, upon receipt of proper vouchers approved by the Commissioner of Education, shall issue warrants out of the

State Department of Education Revolving Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1978, LB 962, § 1; Laws 1995, LB 7, § 88; R.S.Supp., 1995, § 79-340; Laws 1996, LB 900, § 131.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

**79-303.01 State Department of Education; Department of Health and Human Services; Office of Probation Administration; State Court Administrator; sharing data relevant to court-involved students; memorandum of understanding; policies and procedures; consultant recommendations; reports.**

(1) On or before October 1, 2023, the State Department of Education, the Department of Health and Human Services, the Office of Probation Administration, and the State Court Administrator shall enter into a memorandum of understanding for the sharing of data relevant to students who are under the jurisdiction of the juvenile court. The purpose for the sharing of data is to provide systems-wide coordination to improve educational opportunities and outcomes and to facilitate service coordination for such students. The memorandum shall include the intent for the State Department of Education to contract with an outside consultant with expertise in the education of court-involved students to assist in the development of such policies and procedures.

(2) The consultant shall provide recommendations addressing issues that include, but need not be limited to, the following:

(a) Identifying and defining the population of students whose data should be collected and shared;

(b) Defining the specific types of data to be collected and shared;

(c) Identifying shared data systems;

(d) Identifying the entities and persons for which the data should be accessible;

(e) Identifying both federal and state legal responsibilities and confidentiality parameters; and

(f) Developing a uniform approach for the transfer of educational credits.

(3) The development of such policies and procedures for the sharing of data shall be collaborative and shall include input from the appropriate entities including, but not limited to, the State Department of Education, the Department of Health and Human Services, the Office of Probation Administration, the State Court Administrator, the juvenile court system, the superintendent of schools for the youth and rehabilitation centers, public school districts, educators, and court-involved students and their parents. The consultant shall provide a draft report containing the recommendations described in subsection (2) of this section to the appropriate agency representatives and to the Commissioner of Education, the chief executive officer of the Department of Health and Human Services, and the Chief Justice of the Supreme Court on or before September 1, 2024.

(4) The State Department of Education shall complete a final report detailing the recommendations of the consultant and any policies and procedures that

are being considered for adoption by the State Department of Education, the Department of Health and Human Services, the Office of Probation Administration, and the State Court Administrator. The report shall be delivered electronically to the Chief Justice of the Supreme Court, the Governor, and the Clerk of the Legislature on or before December 1, 2024.

**Source:** Laws 2023, LB705, § 122.

#### (b) COMMISSIONER OF EDUCATION

##### **79-304 Commissioner of Education; qualifications.**

The Commissioner of Education shall (1)(a) be a person of superior educational attainments, (b) have had many years of experience, (c) have demonstrated personal and professional leadership in the administration of public education, and (d) be eligible to qualify for the highest grade of school administrator certificate currently issued in the state or (2) possess a combination of education, skills, administrative experiences in public education, and other such qualifications as determined by the State Board of Education.

**Source:** Laws 1953, c. 320, § 11, p. 1059; R.S.1943, (1994), § 79-331; Laws 1996, LB 900, § 132; Laws 2009, LB549, § 12.

##### **79-305 Commissioner of Education; office; powers; duties.**

The Commissioner of Education as the executive officer of the State Board of Education shall: (1) Have an office in the city of Lincoln in which shall be housed the records of the State Board of Education and the State Department of Education, which records shall be subject at all times to examination by the Governor, the Auditor of Public Accounts, and committees of the Legislature; (2) keep the board currently informed and advised on the operation and status of all aspects of the educational program of the state under its jurisdiction; (3) prepare a budget for financing the activities of the board and the department, including the internal operation and maintenance of the department, and upon approval by the board administer the same in accordance with appropriations by the Legislature; (4) voucher the expenses of the department according to the rules and regulations prescribed by the board; (5) be responsible for promoting the efficiency, welfare, and improvement in the school system in the state and for recommending to the board such policies, standards, rules, and regulations as may be necessary to attain these purposes; (6) promote educational improvement by (a) outlining and carrying out plans and conducting essential activities for the preparation of curriculum and other materials, (b) providing necessary supervisory and consultative services, (c) holding conferences of professional educators and other civic leaders, (d) conducting research, experimentation, and evaluation of school programs and activities, and (e) in other ways assisting in the development of effective education in the state; (7) issue teachers' certificates according to the provisions of law and the rules and regulations prescribed by the board; and (8) attend or, in case of necessity, designate a representative to attend all meetings of the board except when the order of business of the board is the selection of a Commissioner of Education. None of the duties prescribed in this section or in section 79-306 prevent the commissioner from exercising such other duties as in his or her judgment and with the

approval of the board are necessary to the proper and legal exercise of his or her obligations.

**Source:** Laws 1953, c. 320, § 12, p. 1059; Laws 1979, LB 289, § 1; R.S.1943, (1994), § 79-332; Laws 1996, LB 900, § 133; Laws 2009, LB549, § 13.

**Cross References**

**Constitutional provisions:**

Appointment, see Article VII, section 4, Constitution of Nebraska.

Board of Trustees of the Nebraska State Colleges, ex officio member, see Article VII, section 13, Constitution of Nebraska.

**79-306 Commissioner of Education; State Department of Education; administrative head; duties.**

The Commissioner of Education shall be the administrative head of the State Department of Education and as such shall (1) have the authority to delegate administrative and supervisory functions to the members of the staff of the department, (2) establish and maintain an appropriate system of personnel administration for the department, (3) prescribe such administrative rules and regulations as are necessary for the proper execution of duties and responsibilities placed upon him or her, (4) perform all duties prescribed by the Legislature in accordance with the policies adopted by the State Board of Education, and (5) faithfully execute the policies and directives of the State Board of Education.

**Source:** Laws 1953, c. 320, § 13, p. 1060; R.S.1943, (1994), § 79-333; Laws 1996, LB 900, § 134; Laws 2009, LB549, § 14.

**79-307 School districts; numbering.**

The Commissioner of Education shall assign a number to each public school district within this state.

**Source:** Laws 1971, LB 528, § 1; R.S.1943, (1987), § 79-312.01; Laws 1988, LB 1142, § 3; R.S.1943, (1994), § 79-301; Laws 1996, LB 900, § 135.

**79-308 Teacher's institutes and conferences; organization; supervision; grant funding to implement evaluation model and training.**

(1) The Commissioner of Education shall organize institutes and conferences at such times and places as he or she deems practicable. He or she shall, as far as practicable, attend such institutes and conferences, provide proper instructors for the same, and in other ways seek to improve the efficiency of teachers and advance the cause of education in the state.

(2) The Legislature finds that (a) an educator-effectiveness system includes a quality evaluation system with the primary goal of improving instruction and learning in every school district and (b) school districts have an opportunity to receive training on the quality evaluation models.

(3) Beginning with the 2016-17 school year through the 2020-21 school year, school districts may apply to the State Department of Education for grant funding for a period of up to two years to implement an evaluation model for effective educators and to obtain the necessary training for administrators and teachers for such model.

**Source:** Laws 1881, c. 78, subdivision VIII, § 2, p. 363; R.S.1913, § 6899; C.S.1922, § 6475; C.S.1929, § 79-1602; R.S.1943, § 79-1605;

Laws 1949, c. 256, § 25, p. 700; R.S.1943, (1994), § 79-304; Laws 1996, LB 900, § 136; Laws 2015, LB525, § 7; Laws 2021, LB528, § 22.

**79-309 Public schools; duty to visit and supervise.**

The Commissioner of Education shall visit or cause to be visited such schools as he or she may have it in his or her power to do and witness and advise with teachers and school officers upon the manner in which they are conducted.

**Source:** Laws 1881, c. 78, subdivision VIII, § 3, p. 363; R.S.1913, § 6900; C.S.1922, § 6476; C.S.1929, § 79-1603; R.S.1943, § 79-1606; Laws 1949, c. 256, § 26, p. 701; R.S.1943, (1994), § 79-305; Laws 1996, LB 900, § 137.

**79-309.01 Commissioner of Education; duties; use of funds.**

(1) The Commissioner of Education shall use the separate accounting provided by the State Treasurer through 2020 under subdivision (1)(b) of section 79-1035 to determine the amount that is attributable to income from solar or wind agreements on school lands. This amount shall provide funds for the grants described in section 79-308 through the 2020-21 school year.

(2) On or before June 30, 2022, any unencumbered and unspent funds from any separate accounting provided by the State Treasurer under subdivision (1)(b) of section 79-1035 shall be transferred to the temporary school fund.

(3) For purposes of this section, agreement means any lease, easement, covenant, or other such contractual arrangement.

**Source:** Laws 2010, LB1014, § 1; Laws 2012, LB828, § 19; Laws 2015, LB525, § 8; Laws 2021, LB528, § 23.

(c) STATE BOARD OF EDUCATION

**79-310 State Board of Education; members; election.**

The State Board of Education shall be composed of eight members who shall be elected as provided in section 32-511. The Commissioner of Education shall not be a member of the State Board of Education.

**Source:** Laws 1953, c. 320, § 2, p. 1054; Laws 1967, c. 527, § 1, p. 1750; Laws 1991, LB 619, § 1; Laws 1994, LB 76, § 589; R.S.1943, (1994), § 79-322; Laws 1996, LB 900, § 138; Laws 2009, LB549, § 15.

Cross References

**Constitutional provisions:**

Creation, Article VII, section 3, Constitution of Nebraska.

Membership, requirements, Article VII, section 3, Constitution of Nebraska.

**Filing fees,** see section 32-608.

**Nomination,** nonpolitical, see section 32-609.

**79-311 State Board of Education; districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.**

(1) For the purpose of section 79-310, the state is divided into eight districts. Each district shall be entitled to one member on the board.

(2) The numbers and boundaries of the districts are designated and established by maps identified and labeled as maps ED21-39003, ED21-39003-1,

ED21-39003-2, ED21-39003-3, ED21-39003-4, ED21-39003-5, ED21-39003-6, ED21-39003-7, and ED21-39003-8, filed with the Clerk of the Legislature, and incorporated by reference as part of Laws 2021, LB7, One Hundred Seventh Legislature, First Special Session.

(3)(a) The Clerk of the Legislature shall transfer possession of the maps referred to in subsection (2) of this section to the Secretary of State on October 1, 2021.

(b) When questions of interpretation of district boundaries arise, the maps referred to in subsection (2) of this section in possession of the Secretary of State shall serve as the indication of the legislative intent in drawing the district boundaries.

(c) Each election commissioner or county clerk shall obtain copies of the maps referred to in subsection (2) of this section for the election commissioner's or clerk's county from the Secretary of State.

(d) The Secretary of State shall also have available for viewing on his or her website the maps referred to in subsection (2) of this section identifying the boundaries for the districts.

**Source:** Laws 1967, c. 527, § 2, p. 1751; Laws 1971, LB 735, § 1; Laws 1981, LB 554, § 1; Laws 1991, LB 619, § 2; R.S.1943, (1994), § 79-322.01; Laws 1996, LB 900, § 139; Laws 2001, LB 856, § 2; Laws 2011, LB702, § 1; Laws 2021, First Spec. Sess., LB7, § 1.

**79-312 State Board of Education districts; population figures and maps; basis.**

For purposes of section 79-311, the Legislature adopts the official population figures and maps from the 2020 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles published by the United States Department of Commerce, Bureau of the Census.

**Source:** Laws 1971, LB 735, § 2; Laws 1981, LB 554, § 2; Laws 1991, LB 619, § 3; R.S.1943, (1994), § 79-322.02; Laws 1996, LB 900, § 140; Laws 2001, LB 856, § 3; Laws 2011, LB702, § 2; Laws 2021, First Spec. Sess., LB7, § 2.

**79-313 State Board of Education; members; qualifications.**

No person shall be eligible to membership on the State Board of Education (1) who is actively engaged in the teaching profession, (2) who is a holder of any state office or a member of a state board or commission unless the board or commission is limited to an advisory capacity, or (3) unless he or she is a citizen of the United States, a resident of the state for a period of at least six months, and a resident of the district from which he or she is elected for a period of at least six months immediately preceding his or her election.

**Source:** Laws 1953, c. 320, § 3, p. 1054; Laws 1994, LB 76, § 590; R.S.1943, (1994), § 79-323; Laws 1996, LB 900, § 141; Laws 2001, LB 797, § 8; Laws 2009, LB549, § 16.

**79-314 State Board of Education; members; vacancies; how filled.**

Vacancies occurring on the State Board of Education between one general election and another shall be filled by appointment by the Governor from among qualified persons residing in the district in which the vacancy occurs.

Such appointments shall be in writing and continue for the unexpired term and until a successor is elected and qualified. The written appointment shall be filed with the Secretary of State.

**Source:** Laws 1953, c. 320, § 4, p. 1054; Laws 1957, c. 124, § 24, p. 436; R.S.1943, (1994), § 79-324; Laws 1996, LB 900, § 142.

**79-315 State Board of Education; members; officers; Commissioner of Education; appointment; term; removal; seal; powers.**

The State Board of Education shall elect from its own membership a president and a vice president and otherwise organize itself for the conduct of business. It shall then consider the appointment of and contracting for a Commissioner of Education whose appointment may be for a period of three years. During such term the commissioner may be removed from office for the causes set forth in subdivision (2) of section 79-318. The commissioner shall be the secretary of the board. The board shall reorganize itself each two years at its first meeting in the next calendar year following a general election. The board shall constitute a body corporate to be known as the State Board of Education, and as such it shall adopt and make use of a common seal and may receive, hold, and use money and real and personal property for the benefit of the school system of the state.

**Source:** Laws 1953, c. 320, § 5, p. 1055; Laws 1969, c. 707, § 1, p. 2711; Laws 1971, LB 525, § 1; Laws 1982, LB 654, § 1; R.S.1943, (1994), § 79-325; Laws 1996, LB 900, § 143.

**79-316 State Board of Education; members; impeachment; grounds.**

Members of the State Board of Education shall be liable to impeachment in the same manner and on the same grounds as other state officers.

**Source:** Laws 1953, c. 320, § 6, p. 1055; Laws 1971, LB 421, § 1; R.S.1943, (1994), § 79-326; Laws 1996, LB 900, § 144.

**79-317 State Board of Education; meetings; open to public; exceptions; compensation and expenses.**

(1) The State Board of Education shall meet regularly and periodically in the office of the State Department of Education at least four times annually and at such other times and places as it may determine necessary for the proper and efficient conduct of its duties. All meetings shall be called in accordance with this section and the Open Meetings Act. Five members of the board shall constitute a quorum.

(2) The public shall be admitted to all meetings of the State Board of Education except to such closed sessions as the board may direct in accordance with the Open Meetings Act. The board shall cause to be kept a record of all public meetings and proceedings of the board. The commissioner, or his or her designated representative, shall be present at all meetings except when the order of business for the board is the selection of a Commissioner of Education.

(3) The members of the State Board of Education shall receive no compensation for their services but shall be reimbursed for expenses incurred in attend-



ing meetings or incurred in the performance of duties as directed by the board as provided in sections 81-1174 to 81-1177.

**Source:** Laws 1953, c. 320, § 7, p. 1055; Laws 1971, LB 421, § 2; Laws 1975, LB 325, § 7; Laws 1981, LB 204, § 153; R.S.1943, (1994), § 79-327; Laws 1996, LB 900, § 145; Laws 2004, LB 821, § 24; Laws 2009, LB549, § 17; Laws 2020, LB381, § 87.

Cross References

**Open Meetings Act**, see section 84-1407.

**79-318 State Board of Education; powers; duties.**

The State Board of Education shall:

- (1) Appoint and fix the compensation of the Commissioner of Education;
- (2) Remove the commissioner from office at any time for conviction of any crime involving moral turpitude or felonious act, for inefficiency, or for willful and continuous disregard of his or her duties as commissioner or of the directives of the board;
- (3) Upon recommendation of the commissioner, appoint and fix the compensation of all new professional positions in the department, including any deputy commissioners;
- (4) Organize the State Department of Education into such divisions, branches, or sections as may be necessary or desirable to perform all its proper functions and to render maximum service to the board and to the state school system;
- (5) Provide, through the commissioner and his or her professional staff, enlightened professional leadership, guidance, and supervision of the state school system, including educational service units. In order that the commissioner and his or her staff may carry out their duties, the board shall, through the commissioner:
  - (a) Provide supervisory and consultation services to the schools of the state;
  - (b) issue materials helpful in the development, maintenance, and improvement of educational facilities and programs;
  - (c) establish rules and regulations which govern standards and procedures for the approval and legal operation of all schools in the state and for the accreditation of all schools requesting state accreditation. All public, private, denominational, or parochial schools shall either comply with the accreditation or approval requirements prescribed in this section and section 79-703 or, for those schools which elect not to meet accreditation or approval requirements, the requirements prescribed in subsections (2) through (6) of section 79-1601. Standards and procedures for approval and accreditation shall be based upon the program of studies, guidance services, the number and preparation of teachers in relation to the curriculum and enrollment, instructional materials and equipment, science facilities and equipment, library facilities and materials, and health and safety factors in buildings and grounds. Rules and regulations which govern standards and procedures for private, denominational, and parochial schools which elect, pursuant to the procedures prescribed in subsections (2) through (6) of section 79-1601, not to meet state accreditation or approval requirements shall be as described in such section;
  - (d) institute a statewide system of testing to determine the degree of achievement and accomplishment of all the students within the state's school systems if it determines such testing would be advisable;
  - (e) prescribe a uniform system of records and accounting

for keeping adequate educational and financial records, for gathering and reporting necessary educational data, and for evaluating educational progress; (f) cause to be published laws, rules, and regulations governing the schools and the school lands and funds with explanatory notes for the guidance of those charged with the administration of the schools of the state; (g) approve teacher education programs conducted in Nebraska postsecondary educational institutions designed for the purpose of certificating teachers and administrators, except that such approval shall not require a statewide examination as an entrance requirement related to basic skills competency; (h) approve certificated-employee evaluation policies and procedures developed by school districts and educational service units; and (i) approve general plans and adopt educational policies, standards, rules, and regulations for carrying out the board's responsibilities and those assigned to the State Department of Education by the Legislature;

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

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

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

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

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

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

(12) With the advice of the Department of Motor Vehicles, adopt and promulgate rules and regulations containing reasonable standards, not inconsistent with existing statutes, governing: (a) The general design, equipment, color, operation, and maintenance of any vehicle with a manufacturer's rated seating capacity of eleven or more passengers used for the transportation of public, private, denominational, or parochial school students; and (b) the equipment, operation, and maintenance of any vehicle with a capacity of ten or less passengers used for the transportation of public, private, denominational,

or parochial school students, when such vehicles are owned, operated, or owned and operated by any public, private, denominational, or parochial school or privately owned or operated under contract with any such school in this state, except for vehicles owned by individuals operating a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements. Similar rules and regulations shall be adopted and promulgated for operators of such vehicles as provided in section 79-607;

(13) Accept, on behalf of the Nebraska Center for the Education of Children who are Blind or Visually Impaired, devise of real property or donations or bequests of other property, or both, if in its judgment any such devise, donation, or bequest is for the best interest of the center or the students receiving services from the center, or both, and irrigate or otherwise improve any such real estate when in the board's judgment it would be advisable to do so; and

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

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

**Source:** Laws 1953, c. 320, § 8, p. 1056; Laws 1955, c. 306, § 1, p. 947; Laws 1959, c. 383, § 1, p. 1328; Laws 1967, c. 528, § 2, p. 1753; Laws 1969, c. 707, § 2, p. 2712; Laws 1969, c. 708, § 1, p. 2716; Laws 1971, LB 292, § 5; Laws 1974, LB 863, § 8; Laws 1977, LB 205, § 1; Laws 1979, LB 322, § 37; Laws 1981, LB 316, § 1; Laws 1981, LB 545, § 27; Laws 1984, LB 928, § 2; Laws 1984, LB 994, § 6; Laws 1986, LB 1177, § 36; Laws 1987, LB 688, § 11; Laws 1989, LB 15, § 1; Laws 1989, LB 285, § 141; Laws 1990, LB 980, § 34; Laws 1994, LB 858, § 3; R.S.1943, (1994), § 79-328; Laws 1996, LB 900, § 146; Laws 1999, LB 813, § 6; Laws 2009, LB549, § 18; Laws 2010, LB1071, § 5; Laws 2011, LB575, § 8; Laws 2012, LB782, § 148; Laws 2013, LB222, § 32; Laws 2015, LB525, § 9; Laws 2019, LB675, § 2; Laws 2022, LB1218, § 10.

#### Cross References

**Gifts, devises, and bequests,** loans to needy students, see section 79-2,106.

**Private, denominational, or parochial schools,** election not to meet approval or accreditation requirements, see section 79-1601 et seq.

The state, having a high responsibility for the education of its citizens, has the power to impose reasonable regulations for the control and duration of basic education. Parents have a right to send their children to private schools but do not have the right to be completely unfettered by reasonable government regulations as to the quality of the education furnished and the maintenance of minimum standards. *State ex rel. Douglas v. Faith Baptist Church of Louisville*, 207 Neb. 802, 301 N.W.2d 571 (1981).

Adequate standards are provided by this section to authorize transfer of land from a nonaccredited to an accredited high

school district. *De Jonge v. School Dist. of Bloomington*, 179 Neb. 539, 139 N.W.2d 296 (1966).

Matters to be considered in promulgating rules and regulations are specified. *School Dist. No. 8 of Sherman County v. State Board of Education*, 176 Neb. 722, 127 N.W.2d 458 (1964).

Standards were not effective until filed with Secretary of State. *School Dist. No. 228 of Holt County v. State Board of Education*, 164 Neb. 148, 82 N.W.2d 8 (1957).

This section was not applicable to supply standards in cases arising before its enactment. School Dist. No. 39 of Washington County v. Decker, 159 Neb. 693, 68 N.W.2d 354 (1955).

**79-319 State Board of Education; additional powers; enumerated.**

The State Board of Education has the authority to (1) provide for the education of and approve special educational facilities and programs provided in the public schools for children with disabilities, (2) act as the state's authority for the approval of all types of veterans educational programs and have jurisdiction over the administration and supervision of on-the-job and apprenticeship training, on-the-farm training, and flight training programs for veterans which are financially supported in whole or in part by the federal government, (3) supervise and administer any educational or training program established within the state by the federal government, except postsecondary education in approved colleges, (4) coordinate educational activities in the state that pertain to elementary and secondary education and such other educational programs as are placed by statute under the jurisdiction of the board, (5) administer any state or federal career and technical education laws and funding as directed, (6) receive and distribute according to law any money, commodities, goods, or services made available to the board from the state or federal government or from any other source and distribute money in accordance with the terms of any grant received, including the distribution of money from grants by the federal government to schools, preschools, day care centers, day care homes, nonprofit agencies, and political subdivisions of the state or institutions of learning not owned or exclusively controlled by the state or a political subdivision thereof, so long as no public funds of the state, any political subdivision, or any public corporation are added to such federal grants, (7) publish, from time to time, directories of schools and educators, pamphlets, curriculum guides, rules and regulations, handbooks on school constitution and other matters of interest to educators, and similar publications. Such publications may be distributed without charge to schools and school officials within this state or may be sold at a price not less than the actual cost of printing. The proceeds of such sale shall be remitted to the State Treasurer for credit to the State Department of Education Cash Fund which may be used by the State Department of Education for the purpose of printing and distributing further such publications on a nonprofit basis. Copies of such publications shall be provided to the Nebraska Publications Clearinghouse pursuant to section 51-413, and (8) when necessary for the proper administration of the functions of the department and with the approval of the Governor and the Department of Administrative Services, rent or lease space outside the State Capitol.

**Source:** Laws 1953, c. 320, § 9, p. 1058; Laws 1959, c. 384, § 1, p. 1332; Laws 1961, c. 395, § 1, p. 1202; Laws 1963, c. 469, § 5, p. 1504; Laws 1972, LB 1284, § 20; Laws 1974, LB 863, § 9; Laws 1975, LB 359, § 2; Laws 1976, LB 733, § 1; Laws 1985, LB 417, § 1; Laws 1986, LB 997, § 7; R.S.1943, (1994), § 79-329; Laws 1996, LB 900, § 147; Laws 2009, LB549, § 19; Laws 2014, LB967, § 4; Laws 2017, LB512, § 9.

**79-320 State Board of Education; liability insurance; for whom.**

The State Board of Education has the authority to purchase and maintain insurance, on behalf of the Commissioner of Education or any person who is or

was a member, officer, employee, or agent of the State Board of Education, against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the State Board of Education would have the power to indemnify the individual against such liability under any other provision of law.

**Source:** Laws 1977, LB 146, § 1; Laws 1981, LB 472, § 1; R.S.1943, (1994), § 79-329.01; Laws 1996, LB 900, § 148.

**79-321 Repealed. Laws 2017, LB512, § 41.**

**ARTICLE 4**

**SCHOOL ORGANIZATION AND REORGANIZATION**

(a) LEGISLATIVE GOALS, DIRECTIVES, AND LIMITATIONS  
FOR REORGANIZATION OF SCHOOL DISTRICTS

Section

79-401. Repealed. Laws 2018, LB377, § 87.  
79-402. Repealed. Laws 2018, LB377, § 87.  
79-403. Repealed. Laws 2018, LB377, § 87.  
79-404. Repealed. Laws 2018, LB377, § 87.

(b) LEGAL STATUS, FORMATION, AND TERRITORY

79-405. District; body corporate; powers; name.  
79-406. Repealed. Laws 2018, LB377, § 87.  
79-407. Class I, Class II, or Class III school district; boundaries; body corporate; powers.  
79-408. Class IV school district; boundaries; body corporate; powers.  
79-409. Class V school district; body corporate; powers.  
79-410. Repealed. Laws 2018, LB377, § 87.  
79-411. Repealed. Laws 2018, LB377, § 87.  
79-412. Districts; bordering on river constituting state boundary line; boundary.

(c) PETITION PROCESS FOR REORGANIZATION

79-413. School districts; creation from other school districts; change of boundaries; petition method; hearing; procedure; appeal.  
79-414. Districts; change in territory; list of voters; accompany petition.  
79-415. Changes in boundaries; creation of new district; how initiated.  
79-416. Repealed. Laws 2018, LB377, § 87.  
79-417. Repealed. Laws 2018, LB377, § 87.  
79-418. Changes in boundaries; creation of new school district; petition; requirements.  
79-419. Districts; creation from other districts; petition; contents.  
79-420. School districts; creation from other school districts; appointment of first school board; term; election of successors.  
79-421. Territory not included in organized district; county clerk; notice; hearing.  
79-422. Change in boundary lines; bonded indebtedness; treatment.  
79-423. Repealed. Laws 2018, LB377, § 87.  
79-424. Repealed. Laws 2018, LB377, § 87.  
79-425. Repealed. Laws 2018, LB377, § 87.  
79-426. Repealed. Laws 2018, LB377, § 87.  
79-427. Repealed. Laws 2018, LB377, § 87.  
79-428. Repealed. Laws 1997, LB 347, § 59; Laws 1997, LB 806, § 69.  
79-429. Repealed. Laws 1997, LB 347, § 59; Laws 1997, LB 806, § 69.  
79-430. Repealed. Laws 1997, LB 347, § 59; Laws 1997, LB 806, § 69.  
79-431. Repealed. Laws 2018, LB377, § 87.

(d) REORGANIZATION OF SCHOOL DISTRICTS ACT

79-432. Act, how cited.  
79-433. Terms, defined.

## SCHOOLS

- Section  
79-434. Reorganization of school districts; methods.  
79-435. State Committee for the Reorganization of School Districts; members; appointment; term; qualifications; expenses.  
79-436. State committee; officers; meetings; quorum.  
79-437. Repealed. Laws 1999, LB 272, § 118.  
79-438. Repealed. Laws 1999, LB 272, § 118.  
79-438.01. Repealed. Laws 1999, LB 272, § 118.  
79-439. State committee; duties.  
79-440. Repealed. Laws 1999, LB 272, § 118.  
79-441. State committee; plan of reorganization; review.  
79-442. State committee; plan of reorganization; public hearings; notice.  
79-443. State committee; plan of reorganization; contents.  
79-444. Plan of reorganization; territory included; state committee; procedure.  
79-445. Plan of reorganization; state committee; disapproval; effect.  
79-446. Plan of reorganization; approval; special election.  
79-447. Plan of reorganization; special election; notice; contents; approval of plan.  
79-448. Plan of reorganization; disapproval of plan; continuance of efforts; revised plan; approval.  
79-449. Plan of reorganization; two or more districts; indebtedness.  
79-450. Plan of reorganization; adoption; county clerk; duties.  
79-451. New school district; state committee; appoint board; members; appointment; terms; duties.

### (e) DISSOLUTION OF CLASS I AND CLASS II SCHOOL DISTRICTS

- 79-452. Repealed. Laws 2018, LB377, § 87.  
79-453. Repealed. Laws 2018, LB377, § 87.  
79-454. Repealed. Laws 2018, LB377, § 87.  
79-455. Repealed. Laws 2018, LB377, § 87.

### (f) FREEHOLDERS' PETITIONS

- 79-456. Repealed. Laws 1997, LB 347, § 59.  
79-457. Repealed. Laws 1997, LB 347, § 59.  
79-458. School district; tract of land set off from district; petition; conditions; procedure; appeal.  
79-458.01. Property encapsulated by school district; transfer; procedure.  
79-459. Repealed. Laws 1997, LB 347, § 59.

### (g) SPECIAL PROPERTY TRANSFERS AND DISSOLUTION AND ANNEXATION OF SCHOOL DISTRICTS

- 79-460. Repealed. Laws 1999, LB 272, § 118.  
79-461. Repealed. Laws 1999, LB 272, § 118.  
79-462. Repealed. Laws 1999, LB 272, § 118.  
79-463. Repealed. Laws 1999, LB 272, § 118.  
79-464. Repealed. Laws 1999, LB 272, § 118.  
79-465. Repealed. Laws 1999, LB 272, § 118.  
79-466. Repealed. Laws 1999, LB 272, § 118.  
79-467. District; reduced taxable valuation by purchase or appropriation by federal government; exclusion of such land; formation of new district.  
79-468. City of second class or village; merger with city of primary class; existing school districts; merger; obligations; how discharged.  
79-469. City of second class or village; merger with city of primary class; officers of merged school district; duties.  
79-470. Contract for instruction; limitation; dissolution.  
79-471. Dissolving district; expenses incurred by school district; charge against district and taxable property therein.  
79-472. Repealed. Laws 2018, LB377, § 87.  
79-473. Class I, II, or III school district; annexed school district territory; negotiation; criteria.  
79-474. School district merged into Class I, II, or III school district; bonded indebtedness; liability.

## SCHOOL ORGANIZATION AND REORGANIZATION

- Section  
79-475. School district merged into Class I, II, III, or IV school district; effective; when.  
79-476. Class V school district; property subject to school tax; management of affairs of district.  
79-477. Repealed. Laws 2018, LB377, § 87.  
79-478. Repealed. Laws 2018, LB377, § 87.
- (h) PROCEDURES AND RULES FOR NEW OR CHANGED DISTRICTS
- 79-479. Change of boundaries; order; transfer of assets and liabilities.  
79-480. Districts; changes in boundaries; filing of petition; evidence.  
79-481. Repealed. Laws 1999, LB 272, § 118.  
79-482. Repealed. Laws 1999, LB 272, § 118.  
79-483. Repealed. Laws 1999, LB 272, § 118.  
79-484. Repealed. Laws 1999, LB 272, § 118.  
79-485. New districts; formation from dissolved district possessing property; property and indebtedness; how apportioned.  
79-486. New districts; proceeds of sale and funds of old district; how apportioned.  
79-487. Districts; division; part taken over by United States; sale of schoolhouse.  
79-488. Districts; reduction in size through acquisition of land by United States; attachment of remainder; apportionment of funds.  
79-489. New districts; formation from old districts; general indebtedness; duty to consider in dividing property.  
79-490. Districts; change in boundary lines; map; report; adjustments in tax list.  
79-491. Districts; presumption of organization.  
79-492. Repealed. Laws 2018, LB377, § 87.  
79-493. Repealed. Laws 2018, LB377, § 87.  
79-494. Repealed. Laws 2018, LB377, § 87.  
79-495. Repealed. Laws 2018, LB377, § 87.  
79-496. Class IV or Class V school district; obligations of merged districts; assumption.  
79-497. Division of districts within city of primary or metropolitan class; assets and liabilities; adjustment.
- (i) DEPOPULATED DISTRICTS
- 79-498. Depopulated districts; attachment to adjoining districts; notice; when authorized; waiver of requirements; findings; appeal; distribution of assets.  
79-499. Class I, II, or III school district; membership requirements; cooperative programs; when required; plan; ballot issue; when; failure; effect.
- (j) SPECIAL PROVISIONS FOR AFFILIATED DISTRICTS
- 79-4,100. Repealed. Laws 2018, LB377, § 87.  
79-4,101. Repealed. Laws 2018, LB377, § 87.  
79-4,102. Repealed. Laws 2018, LB377, § 87.  
79-4,103. Repealed. Laws 2018, LB377, § 87.  
79-4,104. Repealed. Laws 2018, LB377, § 87.
- (k) REORGANIZATION STUDIES
- 79-4,105. Repealed. Laws 2003, LB 67, § 34.  
79-4,106. Repealed. Laws 2003, LB 67, § 34.  
79-4,107. Repealed. Laws 2001, LB 313, § 5.
- (l) UNIFIED SYSTEM
- 79-4,108. Unified system; interlocal agreement; contents; application; procedure; effect.  
79-4,109. Repealed. Laws 2018, LB377, § 87.  
79-4,110. Repealed. Laws 2018, LB377, § 87.  
79-4,111. Repealed. Laws 2018, LB377, § 87.
- (m) REORGANIZATION OF CLASS I AND VI SCHOOL DISTRICTS
- 79-4,112. Repealed. Referendum 2006, No. 422.  
79-4,113. Repealed. Referendum 2006, No. 422.

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- 79-4,114. Repealed. Referendum 2006, No. 422.
- 79-4,115. Repealed. Referendum 2006, No. 422.
- 79-4,116. Repealed. Referendum 2006, No. 422.

(n) LEARNING COMMUNITY REORGANIZATION ACT

- 79-4,117. Act, how cited.
- 79-4,118. Terms, defined.
- 79-4,119. Reorganization; provisions applicable.
- 79-4,120. Methods authorized.
- 79-4,121. Plan review; state committee; considerations.
- 79-4,122. Public hearings; record; notice.
- 79-4,123. Plan of reorganization; contents.
- 79-4,124. State committee; notification.
- 79-4,125. Disapproved plan; return to affected school districts.
- 79-4,126. School district in learning community; plan of reorganization; submitted to state committee; approved plan; procedure.
- 79-4,127. Indebtedness.
- 79-4,128. County clerk; duties; filings required.
- 79-4,129. State committee; duties; school board; appointments; terms; duties.
- 79-4,130. Repealed. Laws 2007, LB 641, § 54.

(a) LEGISLATIVE GOALS, DIRECTIVES, AND LIMITATIONS FOR REORGANIZATION OF SCHOOL DISTRICTS

- 79-401 Repealed. Laws 2018, LB377, § 87.**
- 79-402 Repealed. Laws 2018, LB377, § 87.**
- 79-403 Repealed. Laws 2018, LB377, § 87.**
- 79-404 Repealed. Laws 2018, LB377, § 87.**

(b) LEGAL STATUS, FORMATION, AND TERRITORY

**79-405 District; body corporate; powers; name.**

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 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 \_\_\_\_\_ .

**Source:** Laws 1881, c. 78, subdivision I, § 2, p. 331; R.S.1913, § 6701; C.S.1922, § 6239; C.S.1929, § 79-102; R.S.1943, § 79-102; Laws 1949, c. 256, § 40, p. 706; Laws 1961, c. 396, § 2, p. 1204; Laws 1988, LB 1142, § 4; R.S.1943, (1994), § 79-401; Laws 1996, LB 900, § 154; Laws 2005, LB 126, § 12; Referendum 2006, No. 422.

**Cross References**

**For recovery of public money,** see section 77-2363.

This section (formerly section 79-401) gives a school district the power to hold an easement in real estate. *Robertson v. School Dist. No. 17 of Douglas County*, 252 Neb. 103, 560 N.W.2d 469 (1997).

Territorial boundaries of school district are subject to change according to current educational needs and good educational

principles. *Halstead v. Rozmiarek*, 167 Neb. 652, 94 N.W.2d 37 (1959).

Members of school board act in a representative capacity and not as individuals. *Greer v. Chelewski*, 162 Neb. 450, 76 N.W.2d 438 (1956).

A school district is a creature of statute, has no powers beyond those given by Legislature, and may contract only re-



specting objects and to extent laws permit. American Surety Co. v. School District No. 64 of Douglas County, 117 Neb. 6, 219 N.W. 583 (1928).

On appeal, district must give appeal bond. School Dist. No. 6 of Cass County v. Traver, 43 Neb. 524, 61 N.W. 720 (1895).

To state cause of action against school district, supposed indebtedness must be shown to have been lawfully incurred.

School Dist. No. 16 of Hamilton County v. School Dist. No. 9 of Hamilton County, 12 Neb. 241, 11 N.W. 311 (1882).

Action on behalf of school district must be brought in name of district. Donnelly v. Duras, 11 Neb. 283, 9 N.W. 45 (1881).

**79-406 Repealed. Laws 2018, LB377, § 87.**

**79-407 Class I, Class II, or Class III school district; boundaries; body corporate; powers.**

(1) The territory within the corporate limits of each incorporated municipality in the State of Nebraska that is not in part within the boundaries of a learning community, together with such additional territory and additions to such municipality as may be added thereto, as declared by ordinances to be boundaries of such municipality, having a population of less than one thousand five hundred inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, including such adjacent territory as now is or hereafter may be attached for school purposes, shall constitute a Class I school district, except that nothing in this section shall be construed to change the boundaries of any school district that is a member of a learning community. 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.

(2) The territory within the corporate limits of each incorporated municipality in the State of Nebraska that is not in part within the boundaries of a learning community, together with such additional territory and additions to such municipality as may be added thereto, as declared by ordinances to be boundaries of such municipality, having a population of one thousand five hundred or more but fewer than five thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, including such adjacent territory as now is or hereafter may be attached for school purposes, shall constitute a Class II school district, except that nothing in this section shall be construed to change the boundaries of any school district that is a member of a learning community. 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.

(3) The territory within the corporate limits of each incorporated municipality in the State of Nebraska that is not in part within the boundaries of a learning community, together with such additional territory and additions to such municipality as may be added thereto, as declared by ordinances to be boundaries of such municipality, having a population of five thousand or more but fewer than two hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, including such adjacent territory as now is or hereafter may be attached for school purposes, shall constitute a Class III school district, except that nothing in this section shall be construed to change the boundaries of any school district that is a member of a learning community.

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.

**Source:** Laws 1881, c. 78, subdivision XIV, § 1, p. 376; Laws 1883, c. 72, § 18, p. 296; Laws 1897, c. 69, § 1, p. 315; Laws 1909, c. 128, § 1, p. 472; R.S.1913, § 6948; Laws 1917, c. 128, § 1, p. 309; C.S.1922, § 6582; C.S.1929, § 79-2501; R.S.1943, § 79-2501; Laws 1949, c. 256, § 232, p. 767; Laws 1959, c. 382, § 4, p. 1325; Laws 1967, c. 541, § 1, p. 1782; Laws 1976, LB 383, § 1; Laws 1980, LB 743, § 3; Laws 1981, LB 16, § 2; Laws 1983, LB 465, § 1; Laws 1984, LB 908, § 1; Laws 1988, LB 1142, § 6; Laws 1988, LB 835, § 1; R.S.1943, (1994), § 79-801; Laws 1996, LB 900, § 156; Laws 1997, LB 345, § 9; Laws 1998, LB 629, § 2; Laws 2005, LB 126, § 13; Laws 2006, LB 1024, § 21; Referendum 2006, No. 422; Laws 2017, LB113, § 55; Laws 2018, LB377, § 14; Laws 2024, LB1329, § 25.  
Effective date July 19, 2024.

#### Cross References

**Annexation by change of city boundaries,** see section 79-473.

The selection of a site for a new school building in a Class III district is an administrative determination to be made by the board of education of the district. *Christian v. Geis*, 193 Neb. 146, 225 N.W.2d 868 (1975).

### **79-408 Class IV school district; boundaries; body corporate; powers.**

The territory now or hereafter embraced within each incorporated city of the metropolitan class or city of the primary class in the State of Nebraska that is not in part within the boundaries of a learning community, 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, except that nothing in this section shall be construed to change the boundaries of any school district that is a member of a learning community. 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 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.

**Source:** Laws 1917, c. 225, § 1, p. 550; C.S.1922, § 6610; C.S.1929, § 79-2601; R.S.1943, § 79-2601; Laws 1947, c. 294, § 1(1), p. 907; Laws 1949, c. 256, § 244, p. 772; Laws 1963, c. 489, § 1, p. 1561; Laws 1971, LB 475, § 1; Laws 1988, LB 1142, § 7; R.S.1943, (1994), § 79-901; Laws 1996, LB 900, § 157; Laws 2005, LB 126, § 14; Laws 2006, LB 1024, § 22; Referendum 2006, No. 422; Laws 2011, LB509, § 15; Laws 2018, LB1081, § 5.

### **79-409 Class V school district; body corporate; powers.**

Each incorporated city of the metropolitan class in the State of Nebraska shall contain at least 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.

**Source:** Laws 1891, c. 45, § 1, p. 317; R.S.1913, § 7007; C.S.1922, § 6638; C.S.1929, § 79-2701; R.S.1943, § 79-2701; Laws 1947, c. 296, § 1, p. 910; Laws 1949, c. 256, § 248, p. 774; Laws 1988, LB 1142, § 8; R.S.1943, (1994), § 79-1001; Laws 1996, LB 900, § 158; Laws 2005, LB 126, § 15; Laws 2006, LB 1024, § 23; Referendum 2006, No. 422.

**79-410 Repealed. Laws 2018, LB377, § 87.**

**79-411 Repealed. Laws 2018, LB377, § 87.**

**79-412 Districts; bordering on river constituting state boundary line; boundary.**

The boundary line or part thereof of all school districts which border on any river that is the boundary line between the State of Nebraska and any other state shall be identical with the boundary line of the state.

**Source:** Laws 1923, c. 62, § 1, p. 189; C.S.1929, § 79-131; R.S.1943, § 79-143; Laws 1949, c. 256, § 60, p. 713; R.S.1943, (1994), § 79-421; Laws 1996, LB 900, § 161.

### (c) PETITION PROCESS FOR REORGANIZATION

**79-413 School districts; creation from other school districts; change of boundaries; petition method; hearing; procedure; appeal.**

(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 district that is not a member of a learning community 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.

(2) Petitions proposing to change the boundaries of existing school districts that are not members of a learning community 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, or IV school districts or when there would be an exchange of parcels of land between Class I, II, III, or IV school districts and the petitions have the approval of at least sixty-five percent of the school board of each affected district.

(3)(a) Petitions proposing to create a new school district or to change the boundary lines of existing school districts that are not members of a learning community, 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. 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) 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.

(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 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.

**Source:** Laws 1881, c. 78, subdivision I, § 4, p. 332; Laws 1883, c. 72, § 1, p. 288; Laws 1885, c. 79, § 1, p. 319; Laws 1889, c. 78, § 1, p. 539; Laws 1895, c. 58, § 1, p. 221; Laws 1901, c. 59, § 1, p. 429; Laws 1909, c. 117, § 1, p. 451; R.S.1913, § 6703; C.S.1922, § 6241; Laws 1923, c. 63, § 1, p. 190; Laws 1925, c. 177, § 1, p. 461; C.S.1929, § 79-104; Laws 1931, c. 145, § 1, p. 396; C.S.Supp.,1941, § 79-104; Laws 1943, c. 197, § 1(2), p. 659; R.S.1943, § 79-105; Laws 1949, c. 256, § 41, p. 706; Laws 1951, c. 276, § 2, p. 928; Laws 1953, c. 295, § 1, p. 999; Laws 1955, c. 315, § 3, p. 973; Laws 1957, c. 342, § 1, p. 1181; Laws 1959, c. 385, § 1, p. 1334; Laws 1963, c. 471, § 1, p. 1511; Laws 1963, c. 473, § 1, p. 1519; Laws 1963, c. 474, § 1, p. 1522; Laws 1963, c. 475, § 1, p. 1525; Laws 1963, c. 472, § 1, p. 1514; Laws 1967, c. 529, § 1, p. 1757; Laws 1971, LB 468, § 1; Laws 1984, LB 1098, § 1; Laws 1990, LB 259, § 5; Laws 1991, LB 511, § 11; Laws 1992, LB 245, § 16; Laws 1992, LB 719, § 1; Laws 1996, LB 604, § 4; R.S.1943, (1994), § 79-402; Laws 1996, LB 900, § 162; Laws 1996, LB 1050, § 2; Laws 1997, LB 806, § 6; Laws 1999, LB 272, § 30; Laws 2001, LB 302, § 1; Laws 2005, LB 126, § 17; Laws 2006, LB 1024, § 24; Referendum 2006, No. 422; Laws 2011, LB8, § 1; Laws 2011, LB235, § 2; Laws 2018, LB377, § 15; Laws 2024, LB1329, § 26.

Effective date July 19, 2024.

- 1. Change of boundaries
- 2. Consolidation
- 3. Procedure
- 4. Miscellaneous

**1. Change of boundaries**

A state committee's approval of a petition for reorganization, including a school district's reallocation of bonding authority, is

a "change" within the committee's jurisdiction under subsection (4) of this section, subject to appeal, and it may not be collater-

ally attacked. *Cumming v. Red Willow Sch. Dist. No. 179*, 273 Neb. 483, 730 N.W.2d 794 (2007).

A state committee's approval of a petition for reorganization, including a school district's reallocation of debt, is a "change" within the committee's jurisdiction under subsection (4) of this section and is subject to appeal. *Nicholson v. Red Willow Cty. Sch. Dist. No. 0170*, 270 Neb. 140, 699 N.W.2d 25 (2005).

Authorization to change boundaries of school districts under sections 79-402 and 79-402.03 is not limited to lands in one compact contiguous area, nor is the transfer of land from one school district to another limited to land contiguous to the common boundary between the two districts. In re Proceedings re Hartwell and Minden School Dists. R-4 & R-3, 211 Neb. 453, 319 N.W.2d 68 (1982).

County superintendents of schools have the authority to create new districts or change the boundaries of existing districts under specific conditions. *Moser v. Turner*, 180 Neb. 635, 144 N.W.2d 192 (1966).

Districts affected by order are those districts whose boundaries will be changed. *Lindgren v. School Dist. of Bridgeport*, 170 Neb. 279, 102 N.W.2d 599 (1960).

Creation of new district requires petition by qualified voters. *Clausen v. School Dist. No. 33 of Lincoln County*, 164 Neb. 78, 81 N.W.2d 822 (1957).

Where proper petition is filed, it is the mandatory duty of county superintendent to order boundary change. *Olsen v. Grosshans*, 160 Neb. 543, 71 N.W.2d 90 (1955).

Order changing boundaries cannot be collaterally attacked. *Cacek v. Munson*, 160 Neb. 187, 69 N.W.2d 692 (1955).

Provisions of this section are mandatory and jurisdictional. *State ex rel. Larson v. Morrison*, 155 Neb. 309, 51 N.W.2d 626 (1952).

County superintendent cannot change or modify boundaries of a school district which are fixed by a special act of the Legislature. *Plattsmouth Bridge Co. v. Turner*, 128 Neb. 738, 260 N.W. 562 (1935).

Under former act, petition of one-third of voters necessary to change boundaries was necessary. *Cowles v. School Dist. No. 6 of Jefferson County*, 23 Neb. 655, 37 N.W. 493 (1888).

## 2. Consolidation

Apportionment of assets of school districts upon partial or complete merger, division, or annexation decided. *School Dist. No. 74 of Hall County v. School Dist. of Grand Island*, 186 Neb. 728, 186 N.W.2d 485 (1971).

Consolidation of districts may be had without submission of plan to state committee. *School District No. 42 of Hitchcock County v. Marshall*, 160 Neb. 832, 71 N.W.2d 549 (1955).

Consolidation requires joint action of districts involved. *Peterson v. Hancock*, 155 Neb. 801, 54 N.W.2d 85 (1952).

## 3. Procedure

Under this section, action by a county or state reorganization committee, approving or disapproving a school district reorganization plan, is advisory only and a recommendation which does not bind a county superintendent concerning a change in a school district's boundaries. When the county superintendent has determined that the reorganization petition has sufficient valid signatures, the superintendent's duty to carry out the petition reorganization is mandatory. *Leibbrandt v. Lomax*, 228 Neb. 552, 423 N.W.2d 453 (1988).

Under petition form of reorganization, the provisions of the statutes are mandatory and jurisdictional, and once a sufficient number of legal voters of each district have signed a petition the superintendent must act in accordance with the statutes. *Eriksen v. Ray*, 212 Neb. 8, 321 N.W.2d 59 (1982).

Legal school voters are entitled to judicial review of school district boundary changes and may intervene in district court proceeding brought by one of districts involved. *School Dist. of Gering v. Stannard*, 193 Neb. 624, 228 N.W.2d 600 (1975).

Validity and sufficiency of petition is to be determined as of date it is filed with county superintendent ten days after public hearing by county committee. *Virka v. Knox*, 187 Neb. 664, 193 N.W.2d 573 (1972).

Any person adversely affected by a ruling by the county superintendent hereunder may proceed either by appeal or by error. *Cherry v. Lofgren*, 187 Neb. 133, 187 N.W.2d 652 (1971).

Provision in this section for direct appeal limited to an order which required superintendent to act in a judicial manner. *Kosmicki v. Kowalski*, 184 Neb. 639, 171 N.W.2d 172 (1969).

In an error proceeding under this section, jurisdiction denied where appellant failed to file a properly authenticated transcript. *Lemburg v. Nielsen*, 182 Neb. 747, 157 N.W.2d 381 (1968).

Any person affected by changes of boundaries of district may appeal. *Languis v. De Boer*, 181 Neb. 32, 146 N.W.2d 750 (1966).

Any person adversely affected by changes made by county superintendent under this section may appeal to district court. *School Dist. of Wilber v. Pracheil*, 180 Neb. 121, 141 N.W.2d 768 (1966).

A legal voter may add name to petition at any time before petition is filed with county superintendent. *Harnapp v. Bigelow*, 178 Neb. 440, 133 N.W.2d 611 (1965).

Signatures to a petition for change of boundaries of a school district may be added after the time petition was originally circulated and before it was filed. *Retzlaff v. Synovec*, 178 Neb. 147, 132 N.W.2d 314 (1965).

Change of boundaries of school district may be made upon petitions signed by fifty-five percent of the legal voters of the district. *Bierman v. Campbell*, 175 Neb. 877, 124 N.W.2d 918 (1963).

Denial of petition for school district reorganization was final appealable order. *Frankforter v. Turner*, 175 Neb. 252, 121 N.W.2d 377 (1963).

Proceedings for reorganization under petition method are to be distinguished from proceedings under election method. *Longe v. County of Wayne*, 175 Neb. 245, 121 N.W.2d 196 (1963).

Proceedings under this section are to be distinguished from proceedings for reorganization of school districts. *Arends v. Whitten*, 172 Neb. 297, 109 N.W.2d 363 (1961).

Notice and hearing on change of boundaries of any class of school district is provided. *Perkins County High School Dist. v. McQuiston*, 167 Neb. 330, 93 N.W.2d 32 (1958).

Petitions of several districts affected must concur in requesting substantially identical action. *Dovel v. School Dist. No. 23 of Otoe County*, 166 Neb. 548, 90 N.W.2d 58 (1958).

Where proper petitions are filed, it is mandatory duty to hold hearing, and if petitions are sufficient, to change boundaries as requested. *School Dist. No. 49 of Merrick County v. Kriedler*, 165 Neb. 761, 87 N.W.2d 429 (1958).

Where signers of petition are numerous, one or more may sue or defend for all provided proper allegations of class action are made. *Keedy v. Reid*, 165 Neb. 519, 86 N.W.2d 370 (1957).

Under prior law, signer of petition could withdraw at any time before county superintendent acted thereon. *State ex rel. Glenn v. Bennett*, 156 Neb. 258, 55 N.W.2d 677 (1952).

## 4. Miscellaneous

An accepted affiliation petition is not a contract; rather, it creates a new school system. The predecessor to this section, section 79-426.28, made clear the Legislature's intent to have all taxable property in the state within or at least affiliated with a school system that offers education in grades K through 12 by July 1, 1993. *State ex rel. Fick v. Miller*, 255 Neb. 387, 584 N.W.2d 809 (1998).

Former section 79-801.02 is limited to provisions of former section 79-801, and is not applicable to school district boundary

changes under other statutes. *Corcoran v. Boone County Board of Equalization*, 196 Neb. 363, 243 N.W.2d 60 (1976).

Plan for voluntary dissolution of school district ceases to be available when provisions for mandatory dissolution are applicable and have been invoked. *Nelson v. Robertson*, 187 Neb. 192, 188 N.W.2d 720 (1971).

Unless rural organization committee acts promptly on petitions presented under this section or interested parties within reasonable time institute proceedings to force action, committee will lose jurisdiction to act. *Chappell v. Carr*, 185 Neb. 158, 174 N.W.2d 208 (1970).

The 1965 amendment of section independent of other statutes relating to same subject. *Hall v. Simpson*, 184 Neb. 762, 171 N.W.2d 805 (1969).

Validity and sufficiency of petitions for merger of school districts are determined by the county superintendent after notice and hearing. *Reid v. Slepicka*, 182 Neb. 485, 155 N.W.2d 799 (1968).

This section, with others, provides the basis for dissolution of school district and attachment of its area to other districts. *Board of Education v. Winne*, 177 Neb. 431, 129 N.W.2d 255 (1964).

Under former section, Class VI school district was validly created. *State ex rel. Venango Rural High School Dist. v. Ziegler*, 173 Neb. 758, 115 N.W.2d 142 (1962).

Part of 1957 amendment to this section was unconstitutional as not having been expressed in the title. *State ex rel. Bottolfsen v. School Board of School Dist. No. R1 of Cedar and Dixon Counties*, 170 Neb. 417, 103 N.W.2d 146 (1960).

County high school district was not a district affected by detachment of an elementary school district within its territorial area. *Halstead v. Rozmiarek*, 167 Neb. 652, 94 N.W.2d 37 (1959).

Advice as to effect of this section did not work estoppel on reorganization of district. *Nickel v. School Board of Axtell*, 157 Neb. 813, 61 N.W.2d 566 (1953).

#### **79-414 Districts; change in territory; list of voters; accompany petition.**

A list or lists of all the legal voters in each district or territory affected, made under the oath of a resident of each district or territory, shall be given to the State Committee for the Reorganization of School Districts when the petition is filed under section 79-413.

**Source:** Laws 1883, c. 72, § 1, p. 288; Laws 1885, c. 79, § 1, p. 319; Laws 1889, c. 78, § 1, p. 539; Laws 1895, c. 58, § 1, p. 221; Laws 1901, c. 59, § 1, p. 429; Laws 1909, c. 117, § 1, p. 451; R.S.1913, § 6703; C.S.1922, § 6241; Laws 1923, c. 63, § 1, p. 190; Laws 1925, c. 177, § 1, p. 461; C.S.1929, § 79-104; Laws 1931, c. 145, § 1, p. 396; C.S.Supp.,1941, § 79-104; Laws 1943, c. 197, § 1(5), p. 662; R.S.1943, § 79-110; Laws 1949, c. 256, § 43, p. 707; R.R.S.1943, § 79-404; Laws 1971, LB 468, § 7; R.S.1943, (1994), § 79-402.08; Laws 1996, LB 900, § 163; Laws 1999, LB 272, § 31.

#### **79-415 Changes in boundaries; creation of new district; how initiated.**

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 district that is not a member of a learning community.

**Source:** Laws 1971, LB 468, § 2; Laws 1990, LB 259, § 6; Laws 1991, LB 511, § 12; Laws 1992, LB 245, § 17; R.S.1943, (1994), § 79-402.03; Laws 1996, LB 900, § 164; Laws 1997, LB 806, § 7; Laws 2005, LB 126, § 18; Laws 2006, LB 1024, § 25; Referendum 2006, No. 422; Laws 2018, LB377, § 16.

An accepted affiliation petition is not a contract; rather, it creates a new school system. *State ex rel. Fick v. Miller*, 255 Neb. 387, 584 N.W.2d 809 (1998).

#### **79-416 Repealed. Laws 2018, LB377, § 87.**

#### **79-417 Repealed. Laws 2018, LB377, § 87.**

#### **79-418 Changes in boundaries; creation of new school district; petition; requirements.**

Petitions presented pursuant to section 79-415 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.

**Source:** Laws 1971, LB 468, § 5; Laws 1984, LB 942, § 1; R.S.1943, (1994), § 79-402.06; Laws 1996, LB 900, § 167; Laws 1997, LB 806, § 8; Laws 1999, LB 272, § 32; Laws 2005, LB 126, § 20; Referendum 2006, No. 422; Laws 2018, LB377, § 17.

**79-419 Districts; creation from other districts; petition; contents.**

(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.

(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.

**Source:** Laws 1963, c. 475, § 2, p. 1528; R.R.S.1943, (1966), § 79-402.01; Laws 1971, LB 468, § 6; Laws 1985, LB 662, § 26; R.S.1943, (1994), § 79-402.07; Laws 1996, LB 900, § 168; Laws 1997, LB 806, § 9; Laws 1999, LB 272, § 33; Laws 2003, LB 394, § 4; Laws 2005, LB 126, § 21; Referendum 2006, No. 422; Laws 2018, LB377, § 18.

Under the precursor to subsection (2) of this section, merging school boards were not authorized to include in their merger petition a requirement that the surviving school board obtain a majority vote from voters in a former school district or a

unanimous vote from school board members before moving grades four through six from an elementary school in a former district. *Citizens for Eq. Ed. v. Lyons-Decatur Sch. Dist.*, 274 Neb. 278, 739 N.W.2d 742 (2007).

**79-420 School districts; creation from other school districts; appointment of first school board; term; election of successors.**

Within thirty days after the creation of a new school district pursuant to sections 79-413 to 79-419, the State Committee for the Reorganization of

School Districts shall appoint from among the legal voters of the new school district created the number of members necessary to constitute a school board of the class in which the new school district has been classified. Members of the first board shall be appointed so that their terms will expire in accord with provisions of law governing school districts of the class involved. The board so appointed shall organize at once in the manner prescribed by law. A reorganized school district shall be formed, organized, and have a governing board not later than June 1 following the last legal action, as prescribed in section 79-413, necessary to effect the changes in boundaries as set forth in the petition, although the physical reorganization of such reorganized school district may not take effect until the commencement of the following school year. At the next election following the establishment of the new school district and at subsequent elections, successors shall be elected in the manner provided by law for election of board members of the class to which the school district belongs.

**Source:** Laws 1963, c. 475, § 3, p. 1528; R.R.S.1943, (1966), § 79-402.02; Laws 1971, LB 468, § 8; Laws 1988, LB 520, § 1; R.S.1943, (1994), § 79-402.09; Laws 1996, LB 900, § 169; Laws 1997, LB 345, § 11; Laws 1999, LB 272, § 34; Laws 2015, LB525, § 10.

**79-421 Territory not included in organized district; county clerk; notice; hearing.**

(1) When it comes to the attention of the county clerk that any territory located wholly within his or her county is not included in any organized district, he or she shall notify the State Committee for the Reorganization of School Districts. Within fifteen days after such notice, the state committee shall set a date for a hearing on the question of the district or districts to which such territory should be attached and shall give fifteen days' notice by certified or registered mail of the time and place of hearing to each legal voter residing in such territory and whose mailing address is known and also to the school board of each school district in the county adjacent to such territory. Notice of the hearing also shall be given by publication once each week for two weeks in a newspaper of general circulation in the county. Following such hearing, the state committee shall notify the county clerk of the county or counties containing the district or districts to which such territory should be attached and the county clerk shall attach such territory.

(2) If the state committee cannot or does not agree on the district or districts to which the territory shall be attached, within sixty days after being notified by the county clerk, the matter shall be referred to the State Board of Education which shall attach the territory after notice and hearing. Notice shall be given in the same manner as by the state committee.

(3) In determining the district or districts to which such territory shall be attached, consideration shall be given to the school facilities, transportation facilities, and distance children must travel to school.

**Source:** Laws 1971, LB 468, § 9; R.S.1943, (1994), § 79-402.10; Laws 1996, LB 900, § 170; Laws 1999, LB 272, § 35.

**79-422 Change in boundary lines; bonded indebtedness; treatment.**

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.

**Source:** Laws 1971, LB 468, § 10; Laws 1990, LB 259, § 11; Laws 1993, LB 348, § 13; R.S.1943, (1994), § 79-402.11; Laws 1996, LB 900, § 171; Laws 2005, LB 126, § 22; Referendum 2006, No. 422; Laws 2021, LB528, § 24.

**79-423 Repealed. Laws 2018, LB377, § 87.**

**79-424 Repealed. Laws 2018, LB377, § 87.**

**79-425 Repealed. Laws 2018, LB377, § 87.**

**79-426 Repealed. Laws 2018, LB377, § 87.**

**79-427 Repealed. Laws 2018, LB377, § 87.**

**79-428 Repealed. Laws 1997, LB 347, § 59; Laws 1997, LB 806, § 69.**

**79-429 Repealed. Laws 1997, LB 347, § 59; Laws 1997, LB 806, § 69.**

**79-430 Repealed. Laws 1997, LB 347, § 59; Laws 1997, LB 806, § 69.**

**79-431 Repealed. Laws 2018, LB377, § 87.**

#### (d) REORGANIZATION OF SCHOOL DISTRICTS ACT

##### **79-432 Act, how cited.**

Sections 79-432 to 79-451 shall be known and may be cited as the Reorganization of School Districts Act.

**Source:** Laws 1949, c. 249, § 19, p. 679; R.R.S.1943, (1958), § 79-426.19; Laws 1963, c. 479, § 15, p. 1545; R.S.1943, (1994), § 79-426.22; Laws 1996, LB 900, § 181; Laws 1997, LB 806, § 11.

##### **79-433 Terms, defined.**

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 school districts that are not members of a learning community, 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.

**Source:** Laws 1949, c. 249, § 1, p. 673; Laws 1963, c. 479, § 1, p. 1536; Laws 1990, LB 259, § 12; R.S.1943, (1994), § 79-426.01; Laws 1996, LB 900, § 182; Laws 1999, LB 272, § 41; Laws 2005, LB 126, § 24; Laws 2006, LB 1024, § 27; Referendum 2006, No. 422; Laws 2021, LB528, § 25.

Consolidation by election method is to be distinguished from proceedings by petition. *Longe v. County of Wayne*, 175 Neb. 245, 121 N.W.2d 196 (1963).

Plan of reorganization may be initiated by either county committee or state committee. *School District No. 42 of Hitchcock County v. Marshall*, 160 Neb. 832, 71 N.W.2d 549 (1955).

Reorganization of School Districts Act sustained as constitutional. *Nickel v. School Board of Axtell*, 157 Neb. 813, 61 N.W.2d 566 (1953).

This and subsequent 17 sections provide procedure for reorganization of school districts. *Peterson v. Hancock*, 155 Neb. 801, 54 N.W.2d 85 (1952).

#### **79-434 Reorganization of school districts; methods.**

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 dissolution or disorganization of an established district for any of the reasons specified by law.

**Source:** Laws 1949, c. 249, § 2, p. 674; Laws 1990, LB 259, § 13; Laws 1991, LB 511, § 22; Laws 1992, LB 245, § 27; R.S.1943, (1994), § 79-426.02; Laws 1996, LB 900, § 183; Laws 2005, LB 126, § 25; Referendum 2006, No. 422; Laws 2018, LB377, § 19.

Former section 79-801.02 is limited to provisions of former section 79-801, and is not applicable to school district boundary changes under other statutes. *Corcoran v. Boone County Board of Equalization*, 196 Neb. 363, 243 N.W.2d 60 (1976).

Uniting of one or more districts can be accomplished by reorganization method. *School District No. 42 of Hitchcock County v. Marshall*, 160 Neb. 832, 71 N.W.2d 549 (1955).

Reorganization of School Districts Act provides reasonable limitations and standards. *Nickel v. School Board of Axtell*, 157 Neb. 813, 61 N.W.2d 566 (1953).

Merger of school districts was subject to election. *Peterson v. Hancock*, 155 Neb. 801, 54 N.W.2d 85 (1952).

#### **79-435 State Committee for the Reorganization of School Districts; members; appointment; term; qualifications; expenses.**

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 adopt and promulgate rules and regulations for the state committee to carry out its duties as provided by law.

**Source:** Laws 1949, c. 249, § 3, p. 674; Laws 1955, c. 311, § 1, p. 956; Laws 1981, LB 204, § 154; R.S.1943, (1994), § 79-426.03; Laws 1996, LB 900, § 184; Laws 1999, LB 272, § 42; Laws 2005, LB 126, § 26; Referendum 2006, No. 422.

**79-436 State committee; officers; meetings; quorum.**

The state committee shall organize by electing a chairperson and vice-chairperson from its appointive members. The Commissioner of Education shall be secretary of the state committee. Meetings of the state committee shall be held upon the call of the chairperson or any three of the members thereof. A majority of the state committee shall constitute a quorum.

**Source:** Laws 1949, c. 249, § 4, p. 674; Laws 1955, c. 311, § 2, p. 957; R.S.1943, (1994), § 79-426.04; Laws 1996, LB 900, § 185.

**79-437 Repealed. Laws 1999, LB 272, § 118.****79-438 Repealed. Laws 1999, LB 272, § 118.****79-438.01 Repealed. Laws 1999, LB 272, § 118.****79-439 State committee; duties.**

The state committee shall recommend to school districts plans and procedures for the reorganization of school districts within the various counties and shall furnish advice and assistance in connection with such plans and procedures.

**Source:** Laws 1949, c. 249, § 7, p. 676; Laws 1955, c. 311, § 3, p. 957; R.S.1943, (1994), § 79-426.07; Laws 1996, LB 900, § 188; Laws 1999, LB 272, § 43.

State committee has only advisory powers. *School District No. 42 of Hitchcock County v. Marshall*, 160 Neb. 832, 71 N.W.2d 549 (1955). State committee provides plans and procedures. *Nickel v. School Board of Axtell*, 157 Neb. 813, 61 N.W.2d 566 (1953).

**79-440 Repealed. Laws 1999, LB 272, § 118.****79-441 State committee; plan of reorganization; review.**

(1) In the review of a plan for the reorganization of school districts, the state committee shall give due consideration to (a) the educational needs of local communities, (b) economies in transportation and administration costs, (c) the future use of existing satisfactory school buildings, sites, and play fields, (d) the convenience and welfare of pupils, (e) a reduction in the disparities in per pupil valuation among school districts, (f) the equalization of the educational opportunity of pupils, and (g) any other matters which, in its judgment, are of importance. The school board proposing the plan of reorganization, in preparation or review of a plan for reorganization, shall take into consideration any advice or suggestions offered by the state committee.

(2) A plan for the reorganization of school districts shall be filed with the state committee. The plan shall, for purposes of submission to the state committee and at the special election provided for in subsection (1) of section 79-447, be the responsibility of the school district which has the largest number of pupils residing in the proposed district.

**Source:** Laws 1949, c. 249, § 9, p. 676; Laws 1951, c. 278, § 4, p. 939; Laws 1953, c. 296, § 1, p. 1001; Laws 1955, c. 310, § 1, p. 954; Laws 1955, c. 311, § 5, p. 959; Laws 1957, c. 342, § 2, p. 1183; Laws 1963, c. 479, § 4, p. 1538; R.S.1943, (1994), § 79-426.09; Laws 1996, LB 900, § 190; Laws 1997, LB 806, § 16; Laws 1999, LB 272, § 44.

Procedure under this section is not the exclusive method for annexing territory or changing the boundaries of school districts. Moser v. Turner, 180 Neb. 635, 144 N.W.2d 192 (1966).

Territory may be annexed upon joint action of county committees. Frankforter v. Turner, 175 Neb. 252, 121 N.W.2d 377 (1963).

Plan for reorganization of school districts was prepared under this section. Longe v. County of Wayne, 175 Neb. 245, 121 N.W.2d 196 (1963).

This section authorizes the county committee to formulate plans for changes. Arends v. Whitten, 172 Neb. 297, 109 N.W.2d 363 (1961).

Organization of objecting district into separate voting unit was not required. School District No. 49 of Lincoln County v. School District No. 65-R of Lincoln County, 159 Neb. 262, 66 N.W.2d 561 (1954).

County committee prepares initial plan. Nickel v. School Board of Axtell, 157 Neb. 813, 61 N.W.2d 566 (1953).

**79-442 State committee; plan of reorganization; public hearings; notice.**

Before any plan of reorganization is completed or approved by the state committee, it shall hold one or more public hearings. At such hearings, it shall hear any and all persons interested with respect to (1) the merits of proposed reorganization plans, (2) the value and amount of all school property of whatever nature involved in the proposed action, (3) the amount of outstanding indebtedness of each district and proposed disposition thereof, and (4) the equitable adjustment of all property, debts, and liabilities among the districts involved. The state committee shall keep a record of all hearings in the formulation or approval of plans for the reorganization of school districts. Notice of such public hearings of the state committee shall be given by publication in a legal newspaper of general circulation in the county or counties in which the affected districts are located at least ten days prior to such hearing.

**Source:** Laws 1949, c. 249, § 10, p. 677; Laws 1963, c. 479, § 5, p. 1539; R.S.1943, (1994), § 79-426.10; Laws 1996, LB 900, § 191; Laws 1997, LB 806, § 17; Laws 1999, LB 272, § 45; Laws 2001, LB 797, § 9.

This section provides for a public hearing before the completion of a plan of reorganization. Arends v. Whitten, 172 Neb. 297, 109 N.W.2d 363 (1961).

Omission from record of items not specifically required to be kept was not a fatal defect. School District No. 49 of Lincoln

County v. School District No. 65-R of Lincoln County, 159 Neb. 262, 66 N.W.2d 561 (1954).

Notice and hearing on plan is provided. Nickel v. School Board of Axtell, 157 Neb. 813, 61 N.W.2d 566 (1953).

**79-443 State committee; plan of reorganization; contents.**

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;
- (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, a determination of the number of members to be appointed to the initial school board, 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.

**Source:** Laws 1949, c. 249, § 11, p. 677; Laws 1963, c. 480, § 1, p. 1546; Laws 1963, c. 479, § 6, p. 1540; Laws 1985, LB 662, § 28; R.S.1943, (1994), § 79-426.11; Laws 1996, LB 900, § 192; Laws 1997, LB 806, § 18; Laws 1999, LB 272, § 46; Laws 2005, LB 126, § 27; Referendum 2006, No. 422; Laws 2014, LB946, § 36; Laws 2018, LB377, § 20.

This section specifies what a plan of reorganization shall contain. *Arends v. Whitten*, 172 Neb. 297, 109 N.W.2d 363 (1961).

County committee prepares plan of reorganization. *Nickel v. School Board of Axtell*, 157 Neb. 813, 61 N.W.2d 566 (1953).

#### **79-444 Plan of reorganization; territory included; state committee; procedure.**

Territory included in a plan of reorganization adopted by the state committee shall remain a part of the plan until an election is held as provided in section 79-447. The state committee shall, within thirty days after holding the hearings provided for in section 79-442, notify the school districts whether or not it approves or disapproves such plan or plans.

**Source:** Laws 1949, c. 249, § 12, p. 677; Laws 1951, c. 278, § 5, p. 940; Laws 1959, c. 387, § 2, p. 1341; Laws 1963, c. 479, § 7, p. 1541; R.S.1943, (1994), § 79-426.12; Laws 1996, LB 900, § 193; Laws 1997, LB 806, § 19; Laws 1999, LB 272, § 47.

This section provides for submission of plan to state committee if authorized by a majority vote of county committee. *Arends v. Whitten*, 172 Neb. 297, 109 N.W.2d 363 (1961).

State committee reviews plan of reorganization. *Nickel v. School Board of Axtell*, 157 Neb. 813, 61 N.W.2d 566 (1953).

State committee has only advisory powers. *School District No. 42 of Hitchcock County v. Marshall*, 160 Neb. 832, 71 N.W.2d 549 (1955).

#### **79-445 Plan of reorganization; state committee; disapproval; effect.**

If the state committee disapproves the plan, it shall be considered a disapproved plan, shall be returned to the school districts as a disapproved plan, and shall not be submitted to a special election.

**Source:** Laws 1949, c. 249, § 14, p. 678; R.S.1943, (1994), § 79-426.14; Laws 1996, LB 900, § 194; Laws 1997, LB 806, § 20; Laws 1999, LB 272, § 48.

This section provides that county committee may accept or reject recommendations of state committee. *Arends v. Whitten*, 172 Neb. 297, 109 N.W.2d 363 (1961).

School District No. 65-R of Lincoln County, 159 Neb. 262, 66 N.W.2d 561 (1954).

Special election may be held at any convenient place in proposed district. *School District No. 49 of Lincoln County v.*

#### **79-446 Plan of reorganization; approval; special election.**

When a plan of reorganization or any part thereof has been approved by the state committee, it shall be designated as the final approved plan and shall be

returned to the school districts to be submitted to a vote as provided in section 79-447.

**Source:** Laws 1949, c. 249, § 13, p. 678; Laws 1963, c. 479, § 8, p. 1542; R.S.1943, (1994), § 79-426.13; Laws 1996, LB 900, § 195; Laws 1997, LB 806, § 21; Laws 1999, LB 272, § 49.

Contest of special election under this section is authorized. *Arends v. Whitten*, 172 Neb. 297, 109 N.W.2d 363 (1961). County committee submits plan of reorganization at special election. *Nickel v. School Board of Axtell*, 157 Neb. 813, 61 N.W.2d 566 (1953).

**79-447 Plan of reorganization; special election; notice; contents; approval of plan.**

(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.

(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.

(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.

**Source:** Laws 1949, c. 249, § 15, p. 678; Laws 1951, c. 278, § 6, p. 941; Laws 1953, c. 297, § 1, p. 1003; Laws 1955, c. 311, § 6, p. 960;

Laws 1957, c. 342, § 3, p. 1184; Laws 1963, c. 480, § 2, p. 1547; Laws 1963, c. 479, § 9, p. 1542; Laws 1972, LB 661, § 80; Laws 1994, LB 76, § 592; R.S.1943, (1994), § 79-426.15; Laws 1996, LB 900, § 196; Laws 1997, LB 345, § 13; Laws 1999, LB 272, § 50; Laws 2005, LB 126, § 28; Referendum 2006, No. 422; Laws 2018, LB377, § 21.

#### Cross References

**Election Act**, see section 32-101.

Under the election method of reorganization, it is the final special election which causes the reorganization, and requirements relating to notice and hearings are not jurisdictional and will not be strictly enforced after the election, in absence of some showing that the electors were prevented from exercising their free will. *Eriksen v. Ray*, 212 Neb. 8, 321 N.W.2d 59 (1982).

Procedure under this section is not the exclusive method for annexing territory or changing the boundaries of school districts. *Moser v. Turner*, 180 Neb. 635, 144 N.W.2d 192 (1966).

Special election under this section is governed by the general election laws. *Longe v. County of Wayne*, 175 Neb. 245, 121 N.W.2d 196 (1963).

Election held under this section is subject to contest under general election laws. *Arends v. Whitten*, 172 Neb. 297, 109 N.W.2d 363 (1961).

Conduct of election is placed in charge of election officials holding general elections. *Farrell v. School Dist. No. 54 of Lincoln County*, 164 Neb. 853, 84 N.W.2d 126 (1957).

Constitutionality of unit system of voting sustained. *School District No. 49 of Lincoln County v. School District No. 65-R of Lincoln County*, 159 Neb. 262, 66 N.W.2d 561 (1954).

Power to change existing school districts is left with the electorate. *Nickel v. School Board of Axtell*, 157 Neb. 813, 61 N.W.2d 566 (1953).

Electoral consent of districts involved is necessary to adoption of plan of reorganization. *Peterson v. Hancock*, 155 Neb. 801, 54 N.W.2d 85 (1952).

#### **79-448 Plan of reorganization; disapproval of plan; continuance of efforts; revised plan; approval.**

If the majority vote in each voting unit at the election described in section 79-447 is not in favor of the plan of reorganization, the school districts may continue in their efforts in an attempt to prepare a revised plan which might be acceptable. If a revised plan is approved by the school districts, it shall be submitted for the approval of the state committee, and if approved by the state committee it shall be submitted to a vote under the procedure provided in section 79-447.

**Source:** Laws 1963, c. 479, § 10, p. 1544; R.S.1943, (1994), § 79-426.16; Laws 1996, LB 900, § 197; Laws 1999, LB 272, § 51.

#### **79-449 Plan of reorganization; two or more districts; indebtedness.**

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.

**Source:** Laws 1949, c. 249, § 16, p. 679; Laws 1959, c. 387, § 3, p. 1341; R.S.Supp.,1961, § 79-426.16; Laws 1963, c. 479, § 11, p. 1544; Laws 1971, LB 292, § 6; Laws 1990, LB 259, § 15; R.S.1943, (1994), § 79-426.17; Laws 1996, LB 900, § 198; Laws 2005, LB 126, § 29; Referendum 2006, No. 422; Laws 2021, LB528, § 26.

#### **79-450 Plan of reorganization; adoption; county clerk; duties.**

If the plan of reorganization is adopted, the county clerk shall proceed to cause the changes, realignment, and adjustment of districts to be carried out as provided in the plan. The county clerk shall classify the school districts according to the law applicable to the size, location, and population of the reorganized district. He or she shall also file certificates with the county

assessor, county treasurer, and state committee showing the boundaries of the various districts under the plan of reorganization adopted.

**Source:** Laws 1949, c. 249, § 17, p. 679; R.R.S.1943, § 79-426.17; Laws 1963, c. 479, § 12, p. 1544; R.S.1943, (1994), § 79-426.18; Laws 1996, LB 900, § 199; Laws 1999, LB 272, § 52.

Former section 79-801.02 is limited to provisions of former section 79-801, and is not applicable to school district boundary changes under other statutes. *Corcoran v. Boone County Board of Equalization*, 196 Neb. 363, 243 N.W.2d 60 (1976).

Action of county superintendent under this section is ministerial only. *Longe v. County of Wayne*, 175 Neb. 245, 121 N.W.2d 196 (1963).

**79-451 New school district; state committee; appoint board; members; appointment; terms; duties.**

Within thirty days after the classification of the reorganized school districts by the county clerk under section 79-450, the state committee shall appoint from among the legal voters of each new school district created the number of school board members specified in the plan of reorganization. A reorganized school district shall be formed and organized and shall have a school board not later than April 1 following the last legal action, as prescribed in section 79-450, necessary to effect the changes in boundaries as set forth in the plan of reorganization, although the physical reorganization of such reorganized school district may not take effect until June 1. The first board shall be appointed on an at-large basis, and all boards shall be elected at large until such time as school districts are established as provided in section 32-554.

In appointing the first school board of a Class I, II, or III school district, the terms of approximately one-half of the members shall expire on the first Thursday after the first Tuesday in January after the first even-numbered year following their appointment and the terms of the remaining members shall expire on the first Thursday after the first Tuesday in January after the second even-numbered year following their appointment.

The school board so appointed shall proceed at once to organize in the manner prescribed by law.

**Source:** Laws 1949, c. 249, § 18, p. 679; Laws 1955, c. 311, § 7, p. 962; R.R.S.1943, (1958), § 79-426.18; Laws 1963, c. 479, § 13, p. 1545; Laws 1973, LB 557, § 6; Laws 1974, LB 592, § 1; Laws 1988, LB 520, § 2; Laws 1991, LB 789, § 10; Laws 1991, LB 511, § 23; Laws 1992, LB 245, § 28; Laws 1994, LB 76, § 593; R.S.1943, (1994), § 79-426.19; Laws 1996, LB 900, § 200; Laws 1996, LB 967, § 3; Laws 1997, LB 345, § 14; Laws 1999, LB 272, § 53; Laws 2014, LB946, § 37; Laws 2018, LB377, § 22; Laws 2024, LB1329, § 27.

Effective date July 19, 2024.

(e) DISSOLUTION OF CLASS I AND CLASS II SCHOOL DISTRICTS

**79-452 Repealed. Laws 2018, LB377, § 87.**

**79-453 Repealed. Laws 2018, LB377, § 87.**

**79-454 Repealed. Laws 2018, LB377, § 87.**

**79-455 Repealed. Laws 2018, LB377, § 87.**



## (f) FREEHOLDERS' PETITIONS

**79-456 Repealed. Laws 1997, LB 347, § 59.**

**79-457 Repealed. Laws 1997, LB 347, § 59.**

**79-458 School district; tract of land set off from district; petition; conditions; procedure; appeal.**

(1) Any freeholder or freeholders, person in possession or constructive possession as vendee pursuant to a contract of sale of the fee, holder of a school land lease under section 72-232, or entrant upon government land who has not yet received a patent therefor may file a petition on or before June 1 for all other years with a board consisting of the county assessor, county clerk, and county treasurer, asking to have any tract or tracts of land described in the petition set off from an existing school district in which the land is situated and attached to a different school district which is contiguous to such tract or tracts of land if:

(a)(i) The school district in which the land is situated is a Class I, II, or III school district which has had an average daily membership in grades nine through twelve of less than sixty for the two consecutive school fiscal years immediately preceding the filing of the petition;

(ii) Such Class I, II, or III school district has voted pursuant to section 77-3444 to exceed the maximum levy established pursuant to subdivision (2)(a) of section 77-3442, which vote is effective for the school fiscal year in which the petition is filed or for the following school fiscal year;

(iii) The high school in such Class I, II, or III school district is within fifteen miles on a maintained public highway or maintained public road of another public high school; and

(iv) Neither school district is a member of a learning community; or

(b) Except as provided in subsection (7) of this section, the school district in which the land is situated, regardless of the class of school district, has approved a budget for the school fiscal year in which the petition is filed that will cause the combined levies for such school fiscal year, except levies for bonded indebtedness approved by the voters of such school district and levies for the refinancing of such bonded indebtedness, to exceed the greater of (i) one dollar and twenty cents per one hundred dollars of taxable valuation of property subject to the levy or (ii) the maximum levy authorized by a vote pursuant to section 77-3444.

For purposes of determining whether a tract of land is contiguous, all petitions currently being considered by the board shall be considered together as a whole.

(2) The petition shall state the reasons for the proposed change and shall show with reference to the land of each petitioner: (a) That (i) the land described in the petition is either owned by the petitioner or petitioners or that he, she, or they hold a school land lease under section 72-232, are in possession or constructive possession as vendee under a contract of sale of the fee simple interest, or have made an entry on government land but have not yet received a patent therefor and (ii) such tract of land includes all such contiguous land owned or controlled by each petitioner; (b) that the conditions of subdivision (1)(a) or (1)(b) of this section have been met; and (c) that such petition is

approved by a majority of the members of the school board of the district to which such land is sought to be attached.

(3) The petition shall be verified by the oath of each petitioner. Notice of the filing of the petition and of the hearing on such petition before the board constituted as prescribed in subsection (1) or (4) of this section shall be given at least ten days prior to the date of such hearing by one publication in a legal newspaper of general circulation in each district and by posting a notice on the outer door of the schoolhouse in each district affected thereby, and such notice shall designate the territory to be transferred. Following the filing of a petition pursuant to this section, such board shall hold a public hearing on the petition and shall approve or disapprove the petition on or before July 15 following the filing of the petition based on a determination of whether the petitioner has complied with all requirements of this section. If such board approves the petition, such board shall change the boundaries of the school districts so as to set off the land described in the petition and attach it to such district pursuant to the petition with an effective date of August 15 following the filing of the petition, which actions shall cause such transfer to be in effect for levies set for the year in which such transfer takes effect.

(4) Petitions requesting transfers of property across county lines shall be addressed jointly to the county clerks of the counties concerned, and the petitions shall be acted upon by the county assessors, county clerks, and county treasurers of the counties involved as one board, with the county clerk of the county from which the land is sought to be transferred acting as chairperson of the board.

(5) Appeals may be taken from the action of such board or, when such board fails to act on the petition, on or before August 1 following the filing of the petition, to the district court of the county in which the land is located on or before August 10 following the filing of the petition, in the same manner as appeals are now taken from the action of the county board in the allowance or disallowance of claims against the county. If an appeal is taken from the action of the board approving the petition or failing to act on the petition, the transfer shall occur effective August 15 following the filing of the petition, which actions shall cause such transfer to be in effect for levies set for the year in which such transfer takes effect, unless action by the district court prevents such transfer.

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

(7) For school districts that have approved a budget for school fiscal year 2007-08 that will cause the combined levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, to exceed the greater of (a) one dollar and twenty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) the maximum levy authorized by a vote pursuant to section 77-3444, the school boards of such school districts may adopt a binding resolution stating that the combined levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, for school fiscal year 2008-09 shall not exceed the greater of (i) one dollar and twenty cents per one hundred dollars of taxable valuation of property subject to the levy or (ii) the maximum levy authorized by a vote pursuant to section 77-3444. On or before May 9, 2008, such binding resolutions shall be filed with the Auditor of Public Accounts and the county

assessors, county clerks, and county treasurers for all counties in which the school district has territory. If such binding resolution is filed on or before May 9, 2008, land shall not be set off and attached to another district pursuant to subdivision (2)(b) of this section in 2008.

(8) Nothing in this section shall be construed to detach obligations for voter-approved bonds from any tract of land.

**Source:** Laws 1996, LB 900, § 207; Laws 1997, LB 710, § 3; Laws 1997, LB 806, § 22; Laws 1998, Spec. Sess., LB 1, § 11; Laws 1999, LB 272, § 58; Laws 2001, LB 797, § 10; Laws 2006, LB 1024, § 43; Laws 2007, LB219, § 1; Laws 2008, LB988, § 4; Laws 2018, LB377, § 23; Laws 2024, LB1329, § 28.  
Effective date July 19, 2024.

#### Cross References

For appeal from action of county board on claim, see section 23-135.

1. Appeal
2. Procedure
3. Miscellaneous

#### 1. Appeal

A party filing a petition under this section has a direct and legal interest in an appeal filed with the district court objecting to the granting of that petition. *Koch v. Cedar Cty. Freeholder Bd.*, 276 Neb. 1009, 759 N.W.2d 464 (2009).

The action of the statutory board under this section (repealed section 79-456) is an exercise of quasi-judicial power, equitable in character, and upon appeal therefrom to the district court, the cause is triable de novo as though it had been originally instituted in such court, and upon appeal from the district court to this court, it is triable de novo as in any other equitable action. In *re Plummer Freeholder Petition*, 229 Neb. 520, 428 N.W.2d 163 (1988).

An appeal taken from action of the State Board of Education pursuant to subsection (1) of this section (repealed section 79-456) must be taken within twenty days from the date that the board votes to transfer the land, rather than from the time it approves a formal memorandum. Such appeals are filed in the district court where the land is located rather than where the action is taken by the board. In *re Covault Freeholder Petition*, 218 Neb. 763, 359 N.W.2d 349 (1984).

The action of the statutory board created under subsection (2) of this section (repealed section 79-456) is an exercise of quasi-judicial power, equitable in character, and on appeal therefrom to the district court the cause is triable de novo as though it had originally been instituted in such court. A trial de novo is conducted as though the earlier trial had not been held in the first place, and evidence is taken anew as such evidence is available at the time of the trial on appeal. In *re Covault Freeholder Petition*, 218 Neb. 763, 359 N.W.2d 349 (1984).

A school district has no standing to appeal in cases of transfers by freehold petitioners which involve only the property of the petitioners, nor can an intervenor entering after the time for appeal has lapsed be substituted as an appellant. In *re Hilbers Property Freehold Transfer*, 211 Neb. 268, 318 N.W.2d 265 (1982).

An appeal from action taken under this section is tried de novo in the Supreme Court. The establishment of the amount of tuition required to be paid by the parents or guardians under subsection (1) of this section (repealed section 79-456) is left to the sole discretion of the local board of education of the adjoining district under former section 79-445. In *re Freeholder's Petition*, 210 Neb. 839, 317 N.W.2d 91 (1982).

Matters to be considered in determining whether or not a requested transfer of land from one school district to another should be permitted are set out and upon appeal trial is de novo

as in equity. *Klecan v. Schmal*, 196 Neb. 100, 241 N.W.2d 529 (1976).

A freeholder's petition hereunder to transfer land from one school district to another must be supported by adequate showing that best educative rather than noneducative interest of petitioner will be served and, after hearing by board, trial and appeal are conducted as in any other equitable action. *Friesen v. Clark*, 192 Neb. 227, 220 N.W.2d 12 (1974).

Method of giving notice of appeal in this particular case from freeholders' board, in a county where by law county clerk is ex officio clerk of the district court, held sufficient. *Elson v. Harbert*, 190 Neb. 437, 208 N.W.2d 703 (1973).

Provisions for appealing from order of justice of the peace or county court not applicable to appeals under this section. *Clark v. Sweet*, 183 Neb. 723, 163 N.W.2d 881 (1969).

Appeal from action of freeholders' board may be taken to district court in same manner as an appeal from the allowance of claims against a county. *Reiber v. Harris*, 179 Neb. 582, 139 N.W.2d 353 (1966).

In conferring right of appeal, procedure was prescribed. *McDonald v. Rentfrow*, 171 Neb. 479, 106 N.W.2d 682 (1960).

Where no final order by board was made, appeal therefrom should be dismissed. *School Dist. No. 98 of Cedar County v. Elliott*, 90 Neb. 89, 132 N.W. 922 (1911).

#### 2. Procedure

Under subsection (5) of this section, appeals from a freeholder board must be filed by August 10 when the board either acted or failed to act on a petition by August 1. *Butler Cty. Sch. Dist. v. Freeholder Petitioners*, 283 Neb. 903, 814 N.W.2d 724 (2012).

Deficiencies in a petition filed under this section do not necessarily defeat the jurisdiction of a freeholder board. *Koch v. Cedar Cty. Freeholder Bd.*, 276 Neb. 1009, 759 N.W.2d 464 (2009).

In determining whether land is contiguous under this section, a freeholder board shall consider all petitions together in order to find that otherwise noncontiguous land is nevertheless contiguous. *Koch v. Cedar Cty. Freeholder Bd.*, 276 Neb. 1009, 759 N.W.2d 464 (2009).

The petitioners for the transfer of land from one school district to another school district have the burden of proving by a preponderance of the evidence each of the statutory requirements for such transfer provided in this section (repealed section 79-456). *Roelfs v. Specht*, 203 Neb. 448, 279 N.W.2d 124 (1979).

Petition hereunder to detach land from school district is not a pending action preserved by general savings clause. *Clark v. Sweet*, 187 Neb. 232, 188 N.W.2d 889 (1971).

Sufficiency of petition being first attacked at time of filing motion for new trial, it will be liberally construed; allegation that land involved is in nonaccredited school district and is to be attached to an accredited school district is sufficient to state a cause of action. *Bader v. Hodwalker*, 187 Neb. 138, 187 N.W.2d 645 (1971).

Unless proof of giving notice as required by this section (repealed section 79-456) appears in the bill of exceptions, action of the board granting request for change of boundaries will be held void for want of jurisdiction. *Endorf v. School Dist. No. 303 of Thayer County*, 186 Neb. 167, 181 N.W.2d 445 (1970).

This section (repealed section 79-456) provides for the transfer of land between school districts upon the petition of a freeholder. *Pribil v. French*, 179 Neb. 602, 139 N.W.2d 356 (1966).

Subsection (2) of this section (repealed section 79-456) prescribes the standards necessary to permit the transfer of land from a nonaccredited to an accredited high school district. *De Jonge v. School Dist. of Bloomington*, 179 Neb. 539, 139 N.W.2d 296 (1966).

Giving of notice of hearing on petition for change of boundaries is essential to validity of proceedings. *Everts v. School Dist. No. 16 of Fillmore County*, 175 Neb. 310, 121 N.W.2d 487 (1963).

In order to give board jurisdiction, petition must be filed and notice given. *State ex rel. School Dist. No. 1 of Sioux County v. School Dist. No. 19 of Sioux County*, 42 Neb. 499, 60 N.W. 912 (1894).

Petition is required, and oral request is not sufficient. *State ex rel. McLane v. Compton*, 28 Neb. 485, 44 N.W. 660 (1890).

### 3. Miscellaneous

Where all of the acts necessary to effect accreditation of a school district have been met prior to the statutory board's ordering the transfer, and, in fact, formal accreditation is granted prior to the time the children begin school and prior to the time the district court acts on the appeal, the issue of accreditation must be considered to have become moot. *In re Covault Freeholder Petition*, 218 Neb. 763, 359 N.W.2d 349 (1984).

An error in the description contained in a petition to alter a school district boundary under this section will not invalidate the petition where it is clear from a reading of the entire

petition what land is intended. *Schilke v. School Dist. No. 107 of Saunders County*, 207 Neb. 448, 299 N.W.2d 527 (1980).

Former section 79-801.02 is limited to provisions of former section 79-801, and is not applicable to school district boundary changes under other statutes. *Corcoran v. Boone County Board of Equalization*, 196 Neb. 363, 243 N.W.2d 60 (1976).

Amendment by L.B. 1378 (1969) in effect when board acted held constitutional and applicable rather than L.B. 798 (1969) which became effective after board acted. *Kaup v. Sweet*, 187 Neb. 226, 188 N.W.2d 891 (1971).

School district maintaining nonaccredited high school grades is a nonaccredited high school district. *Schwanebeck v. Brunk-en*, 183 Neb. 519, 162 N.W.2d 225 (1968).

Proviso in this section did not provide an independent and sole ground for transfer. *Johnson v. School Dist. of Wakefield*, 181 Neb. 372, 148 N.W.2d 592 (1967).

Deputy county officer cannot serve as a member of the board. *Monson v. Neidig*, 180 Neb. 818, 146 N.W.2d 198 (1966).

Subsection (2) of this section (repealed section 79-456) sustained as constitutional. *Ebberson v. School Dist. No. 64 of Cedar County*, 180 Neb. 119, 141 N.W.2d 452 (1966).

This section did not unconstitutionally delegate legislative powers to the courts. *McDonald v. Rentfrow*, 176 Neb. 796, 127 N.W.2d 480 (1964).

Contention that wrong section (repealed section 79-456) was attempted to be amended raised but not decided. *State ex rel. Bottolfson v. School Board of School Dist. No. R1 of Cedar and Dixon Counties*, 170 Neb. 417, 103 N.W.2d 146 (1960).

Action of board is quasi-judicial in nature. *Roy v. Bladen School Dist. No. R-31*, 165 Neb. 170, 84 N.W.2d 119 (1957).

Reasonably improved highway means sufficiently improved to meet normal demands of children of school age. *School Dist. No. 228 of Holt County v. State Board of Education*, 164 Neb. 148, 82 N.W.2d 8 (1957).

This section was not applicable to supply standards in cases arising before its enactment. *School Dist. No. 39 of Washington County v. Decker*, 159 Neb. 693, 68 N.W.2d 354 (1955).

Courts have no power to enforce public policy by attaching territory to school district without affirmative action required by statute and cannot assume that territory which might or should have been added to school district was added where record shows it was not. *Sioux City Bridge Co. v. Miller*, 12 F.2d 41 (8th Cir. 1926).

### 79-458.01 Property encapsulated by school district; transfer; procedure.

Any landowner or group of landowners whose property is a part of a school district and is encapsulated by another school district may, upon filing a notarized affidavit with the county assessor, have such property become a part of the school district by which it is encapsulated if neither school district is a member of a learning community. The transfer shall take place on January 1 next following the filing of the affidavit. Any student resident of such property shall be counted as a resident of the district from which the property was transferred until the close of the school year in which the transfer becomes effective.

For purposes of this section, encapsulated by means entirely within.

**Source:** Laws 1997, LB 806, § 26; Laws 2006, LB 1024, § 44.

### 79-459 Repealed. Laws 1997, LB 347, § 59.

(g) SPECIAL PROPERTY TRANSFERS AND DISSOLUTION  
AND ANNEXATION OF SCHOOL DISTRICTS**79-460 Repealed. Laws 1999, LB 272, § 118.****79-461 Repealed. Laws 1999, LB 272, § 118.****79-462 Repealed. Laws 1999, LB 272, § 118.****79-463 Repealed. Laws 1999, LB 272, § 118.****79-464 Repealed. Laws 1999, LB 272, § 118.****79-465 Repealed. Laws 1999, LB 272, § 118.****79-466 Repealed. Laws 1999, LB 272, § 118.****79-467 District; reduced taxable valuation by purchase or appropriation by federal government; exclusion of such land; formation of new district.**

Whenever (1) a school district that is not a member of a learning community suffers a reduction in the taxable valuation of the real property within the district by reason of the purchase or appropriation by the United States or any instrumentality of the United States of land in the district for any defense, flood control, irrigation, or war project, (2) the number of children who are five through twenty years of age residing in the district increases by reason of the use by the United States of the land so purchased or appropriated for such purposes, and (3) such increase in the number of pupils who will be eligible to attend school in the district does or will require a levy of taxes for general school purposes in excess of the average levy for general school purposes of school districts of the same class in the county, the State Committee for the Reorganization of School Districts shall change the boundaries of the existing district to exclude all land purchased and appropriated by the United States and all land which by reason of its use or ownership is exempt from state taxation under the United States Constitution and the statutes of the United States. When the United States, by the appropriate officer, does not accept or has not accepted exclusive jurisdiction over land so excluded, the state committee shall form a new school district embracing land thus excluded.

**Source:** Laws 1951, c. 277, § 1(4), p. 936; Laws 1979, LB 187, § 222; Laws 1990, LB 1090, § 4; Laws 1992, LB 719A, § 179; R.S.1943, (1994), § 79-408.03; Laws 1996, LB 900, § 216; Laws 1999, LB 272, § 59; Laws 2006, LB 1024, § 45.

**79-468 City of second class or village; merger with city of primary class; existing school districts; merger; obligations; how discharged.**

(1) Whenever a city of the second class, a village, or a ward of a city of the second class or village is consolidated according to law with a city of the primary class, the territory so consolidated shall become annexed to and merged into the school district of such city of the primary class if such territory is in a school district that is not a member of a learning community and the school district of such city of the primary class is not a member of a learning community. All laws, rules, and regulations governing the school district and schools of such city of the primary class shall apply to the district and schools within the territory annexed to it. The school district into which the others in

whole or in part are merged shall succeed to all the property, contracts, and obligations of each and all of the school districts so merged into it, in whole or in part, and shall assume all of their valid contracts and obligations.

(2) If one or more wards, but less than all wards, of a city of the second class or of a village become consolidated with such city of the primary class, the school district into which such territory is merged shall assume such portion of all valid contracts and obligations of the school district of which such territory before the consolidation was a part as the taxable valuation of all the property of the territory thus merged with the school district of such city of the primary class bears to the total taxable valuation of all the property within the school district from which such territory has been detached.

**Source:** Laws 1917, c. 225, § 25, p. 556; C.S.1922, § 6634; C.S.1929, § 79-2625; R.S.1943, § 79-2628; Laws 1949, c. 256, § 220, p. 762; Laws 1979, LB 187, § 235; Laws 1992, LB 719A, § 188; R.S.1943, (1994), § 79-533; Laws 1996, LB 900, § 217; Laws 2006, LB 1024, § 46.

**79-469 City of second class or village; merger with city of primary class; officers of merged school district; duties.**

Upon a consolidation taking effect as provided in section 79-468, the office and tenure of all members of boards of education and other school district officers of the district which is annexed to and merged into the school district of the city of the primary class shall cease. All the officers of any city or village school district thus annexed having any of the funds, records, books, papers, or property of any kind in their hands or under their control shall immediately deliver the same to such officers of the district to which their district is annexed as are entitled to receive them.

**Source:** Laws 1917, c. 225, § 26, p. 557; C.S.1922, § 6635; C.S.1929, § 79-2626; R.S.1943, § 79-2629; Laws 1949, c. 256, § 221, p. 763; R.S.1943, (1994), § 79-534; Laws 1996, LB 900, § 218; Laws 2006, LB 1024, § 47.

**79-470 Contract for instruction; limitation; dissolution.**

(1) No district shall contract for the instruction of all of its pupils with another school district for more than two consecutive years.

(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 another school district.

(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.

(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.

**Source:** Laws 1969, c. 703, § 3, p. 2702; Laws 1973, LB 148, § 2; Laws 1987, LB 106, § 1; R.S.1943, (1994), § 79-603; Laws 1996, LB

900, § 219; Laws 1999, LB 272, § 60; Laws 2005, LB 126, § 33; Referendum 2006, No. 422; Laws 2018, LB377, § 24; Laws 2024, LB1329, § 29.

Effective date July 19, 2024.

County superintendent has mandatory duty to dissolve Class I school district when precedent conditions in this section exist. In re Dissolution of School Dist. No. 22 of Madison County, 216 Neb. 89, 341 N.W.2d 918 (1983).

The constitutional prohibition against passage of ex post facto laws applies only to penal or criminal matters. Lentz v. Saunders, 199 Neb. 3, 255 N.W.2d 853 (1977).

This is an independent act and its adoption did not violate constitutional requirements. Bodenstedt v. Rickers, 189 Neb. 407, 203 N.W.2d 110 (1972).

**79-471 Dissolving district; expenses incurred by school district; charge against district and taxable property therein.**

Any expenses incurred by a school district in opposing an order dissolving it under section 79-470 or 79-598 shall be a charge only against such district and the taxable property therein.

**Source:** Laws 1973, LB 148, § 3; R.S.1943, (1994), § 79-604; Laws 1996, LB 900, § 220.

**79-472 Repealed. Laws 2018, LB377, § 87.**

**79-473 Class I, II, or III school district; annexed school district territory; negotiation; criteria.**

(1) If the territory annexed by a change of boundaries of a city or village which lies within a Class I, II, or 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 I, II, or 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 I, II, or III school district within ninety days after the effective date of the annexation ordinance, except that a merger shall not become effective pursuant to this section if such merger involves a school district that is a member of a learning community.

(2) Notwithstanding subsection (1) of this section, when territory which lies within a Class I, II, or III 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 if neither school district is a member of a learning community 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) 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 boundaries of a school district that is a member of a learning community, the boundaries of any county in which a city of the metropolitan class is located, or the boundaries of any county that has a contiguous border with a city of the metropolitan class, 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.

(4) 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, except that such agreements shall not be binding on reorganization plans pursuant to the Learning Community Reorganization Act.

**Source:** Laws 1996, LB 900, § 222; Laws 1997, LB 345, § 16; Laws 2005, LB 126, § 34; Laws 2006, LB 1024, § 48; Referendum 2006, No. 422; Laws 2018, LB377, § 25; Laws 2024, LB1329, § 30.  
Effective date July 19, 2024.



## Cross References

Learning Community Reorganization Act, see section 79-4,117.

1. Annexation of territory
2. Procedure
3. Miscellaneous

#### 1. Annexation of territory

The proviso of this section distinguishes only between territory annexed to a Class III, IV, V, or VI district by petition, and territory which was a part of the original district or later became a part of it by means other than by petition. The proviso does not distinguish between different methods of creation of school districts. *State ex rel. Halloran v. Hawes*, 203 Neb. 405, 279 N.W.2d 96 (1979).

Apportionment of assets of school districts upon partial or complete merger, division, or annexation decided. *School Dist. No. 74 of Hall County v. School Dist. of Grand Island*, 186 Neb. 728, 186 N.W.2d 485 (1971).

#### 2. Procedure

Annexation by city council resolution in compliance with a subdivision ordinance adopted by the city under section 19-916 constitutes a declaration of boundaries of the city by ordinance within the meaning of former section 79-801. The effective date of the city annexation ordinance is the date of the city council resolution of approval. *Northwest High School Dist. No. 82 of Hall and Merrick Counties v. Hessel*, 210 Neb. 219, 313 N.W.2d 656 (1981).

An action to enjoin a school district or part thereof, consequent upon annexation of territory by a city of the first class, is barred by the statute of limitations unless brought within one

year from effective date of annexation ordinance. *School Dist. No. 127 of Lincoln County v. Simpson*, 191 Neb. 164, 214 N.W.2d 251 (1974).

Effect of annexation upon school district boundaries gave owner of land purportedly annexed standing to contest validity of annexation ordinances. *Doolittle v. County of Lincoln*, 191 Neb. 159, 214 N.W.2d 248 (1974).

#### 3. Miscellaneous

Subsection (4) of this section does not violate either the U.S. Constitution or the Constitution of the State of Nebraska. *School Dist. No. 46 of Sarpy County v. City of Bellevue*, 224 Neb. 543, 400 N.W.2d 229 (1987).

Former section 79-801.02 is limited to provisions of this section, and is not applicable to school district boundary changes under other statutes. *Corcoran v. Boone County Board of Equalization*, 196 Neb. 363, 243 N.W.2d 60 (1976).

Merger not even in existence until required approval forthcoming. *School Dist. of Bellevue v. Strawn*, 185 Neb. 392, 176 N.W.2d 42 (1970).

Plan of government of school district organized under this article is representative in form. *State ex rel. Strange v. School District of Nebraska City*, 150 Neb. 109, 33 N.W.2d 358 (1948).

### 79-474 School district merged into Class I, II, or III school district; bonded indebtedness; liability.

Whenever an existing school district or a part thereof is merged into a Class I, II, or III school district under the provisions of section 79-407 or 79-473, the property included in such school district or part thereof which is merged into the Class I, II, or III school district shall continue to be liable for any bonded indebtedness incurred by the school district of which it was a part prior to such merger and the property included in such school district or part thereof which is merged into the Class I, II, or III school district shall not be liable for any bonded indebtedness incurred by the Class I, II, or III school district prior to such merger.

**Source:** Laws 1965, c. 509, § 1, p. 1628; R.S.1943, (1994), § 79-801.01; Laws 1996, LB 900, § 223; Laws 2024, LB1329, § 31.  
Effective date July 19, 2024.

### 79-475 School district merged into Class I, II, III, or IV school district; effective; when.

Whenever an existing school district, or a part thereof, is merged into a Class I, II, III, or IV school district under the provisions of section 79-407, 79-408, or 79-473, such merger shall be effective on July 1 immediately following the effective date of the change of city or village boundaries which caused the merger pursuant to section 79-407, 79-408, or 79-473.

**Source:** Laws 1965, c. 509, § 2, p. 1628; Laws 1994, LB 1310, § 9; R.S.1943, (1994), § 79-801.02; Laws 1996, LB 900, § 224; Laws 2005, LB 198, § 2; Laws 2024, LB1329, § 32.  
Effective date July 19, 2024.

This section is limited to provisions of former section 79-801, and is not applicable to school district boundary changes under other statutes. *Corcoran v. Boone County Board of Equalization*, 196 Neb. 363, 243 N.W.2d 60 (1976).

An action to enjoin a school district or part thereof, consequent upon annexation of territory by a city of the first class, is barred by the statute of limitations unless brought within one

year from effective date of annexation ordinance. *School Dist. No. 127 of Lincoln County v. Simpson*, 191 Neb. 164, 214 N.W.2d 251 (1974).

Merger takes place on the date specified in this section. *School Dist. of Bellevue v. Strawn*, 185 Neb. 392, 176 N.W.2d 42 (1970).

**79-476 Class V school district; property subject to school tax; management of affairs of district.**

All property within the corporate limits of cities of the metropolitan class, except such property as now is or may hereafter be exempt by law, shall be subject to taxation for all school purposes. The affairs of the school district created by Chapter 79 shall be conducted exclusively by the board of education except as otherwise provided by Chapter 79.

**Source:** Laws 1891, c. 45, § 3, p. 318; R.S.1913, § 7009; C.S.1922, § 6640; C.S.1929, § 79-2703; R.S.1943, § 79-2703; Laws 1949, c. 256, § 250, p. 775; Laws 1951, c. 276, § 11, p. 933; Laws 1959, c. 406, § 1, p. 1368; R.S.1943, (1994), § 79-1002; Laws 1996, LB 900, § 225; Laws 2006, LB 1024, § 49.

Annexation of territory adjacent to metropolitan city did not ipso facto make territory annexed a part of the school district of city. *Ratigan v. Davis*, 175 Neb. 416, 122 N.W.2d 12 (1963).

**79-477 Repealed. Laws 2018, LB377, § 87.**

**79-478 Repealed. Laws 2018, LB377, § 87.**

(h) PROCEDURES AND RULES FOR NEW OR CHANGED DISTRICTS

**79-479 Change of boundaries; order; transfer of assets and liabilities.**

(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 and 79-473 to 79-475, shall be made only upon an order issued by the State Committee for the Reorganization of School Districts or county clerk.

(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 July 1 of such year.

(2) Unless otherwise provided by state law or by the terms of a 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.

**Source:** Laws 1996, LB 604, § 3; Laws 1996, LB 900, § 228; Laws 1997, LB 347, § 13; Laws 1997, LB 806, § 23; Laws 1999, LB 272, § 62; Laws 1999, LB 813, § 8; Laws 2003, LB 394, § 5; Laws 2005, LB 126, § 35; Laws 2006, LB 1024, § 50; Referendum 2006, No. 422; Laws 2018, LB377, § 26.

Cross References

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

**79-480 Districts; changes in boundaries; filing of petition; evidence.**

The county clerk shall file in his or her office all petitions that have been granted for change of boundaries or for the formation of new districts. Such petitions so filed and granted shall be prima facie evidence of the boundaries of districts. All conflicting records of boundaries shall be made to correspond with the petitions so filed and granted.

**Source:** Laws 1885, c. 79, § 1, p. 319; Laws 1889, c. 78, § 1, p. 539; Laws 1895, c. 58, § 1, p. 221; Laws 1901, c. 59, § 1, p. 429; Laws 1909, c. 117, § 1, p. 451; R.S.1913, § 6703; C.S.1922, § 6241; Laws 1923, c. 63, § 1, p. 190; Laws 1925, c. 177, § 1, p. 461; C.S.1929, § 79-104; Laws 1931, c. 145, § 1, p. 396; C.S.Supp.,1941, § 79-104; Laws 1943, c. 197, § 1(8), p. 664; R.S.1943, § 79-117; Laws 1949, c. 256, § 48, p. 709; R.S.1943, (1994), § 79-409; Laws 1996, LB 900, § 229; Laws 1999, LB 272, § 63.

**79-481 Repealed. Laws 1999, LB 272, § 118.**

**79-482 Repealed. Laws 1999, LB 272, § 118.**

**79-483 Repealed. Laws 1999, LB 272, § 118.**

**79-484 Repealed. Laws 1999, LB 272, § 118.**

**79-485 New districts; formation from dissolved district possessing property; property and indebtedness; how apportioned.**

When a new district is formed in whole or in part from one or more districts possessing a schoolhouse or other property of a dissolved district, the State Committee for the Reorganization of School Districts, at the time of forming such new district or as soon thereafter as possible, shall determine the amount justly due to such new district from any dissolved district or districts out of which the new district was in whole or in part formed. The amount shall be determined as nearly as practicable according to the relative value of the taxable property in the respective parts of such former district or districts with the whole value thereof at the time of such division. The fact that the schoolhouse or other property is not paid for shall not deprive such new district of its proportionate share of the value thereof. Such new district shall remain bound for such indebtedness to the same extent as though the new district had not been formed, unless in case of indebtedness not bonded, it shall be adjusted as provided in section 79-489. When a new district embraces all of one or more former districts, the new district shall succeed to all the properties and other

assets and be responsible for all unbonded indebtedness of such former dissolved district or districts.

**Source:** Laws 1881, c. 78, subdivision I, § 9, p. 334; R.S.1913, § 6708; C.S.1922, § 6246; C.S.1929, § 79-109; R.S.1943, § 79-122; Laws 1949, c. 256, § 53, p. 710; Laws 1963, c. 477, § 1, p. 1533; R.S.1943, (1994), § 79-414; Laws 1996, LB 900, § 234; Laws 1999, LB 272, § 64.

When a school district succeeds to all property and assets of former dissolved districts it is liable for breaches of teachers' contracts by former districts if former districts would have been liable. *Knapp v. School Dist. No. 109R of Red Willow and Frontier Counties*, 190 Neb. 237, 207 N.W.2d 223 (1973).

Apportionment of assets of school districts upon partial or complete merger, division, or annexation decided. *School Dist. No. 74 of Hall County v. School Dist. of Grand Island*, 186 Neb. 728, 186 N.W.2d 485 (1971).

After creation of new rural high school district from county high school district, county superintendent is required to determine amount due new district. *State ex rel. Venango Rural High School Dist. v. Ziegler*, 173 Neb. 758, 115 N.W.2d 142 (1962).

Lapse of time, unless it works an estoppel, will not prevent new district from asserting right to division of property. *School*

*Dist. No. 46 of Douglas County v. School Dist. No. 53 of Douglas County*, 49 Neb. 33, 68 N.W. 366 (1896).

Superintendent must apportion property before new district can maintain action. *School Dist. No. 17 of Kearney County v. School Dist. No. 2 of Kearney County*, 17 Neb. 177, 22 N.W. 360 (1885).

Where division is made after levy of taxes, new district may recover its share. *School Dist. No. 6 of Hamilton County v. School Dist. No. 9 of Hamilton County*, 13 Neb. 166, 12 N.W. 921 (1882).

Where division is made before levy, levy cannot be made on new district. *School Dist. No. 9 of Hamilton County v. School Dist. No. 6 of Hamilton County*, 9 Neb. 331, 2 N.W. 712 (1879).

Parent district cannot use funds setoff to new district. *State ex rel. McMillan v. Hodge*, 4 Neb. 265 (1876).

#### **79-486 New districts; proceeds of sale and funds of old district; how apportioned.**

All money on hand and arising from the sale of schoolhouse and site and all other funds of the divided districts described in section 79-485 shall be divided among the several districts created in whole or part from the divided districts as nearly as practicable in proportion to the taxable valuation of the taxable property attached to the districts formed in whole or in part by such division.

**Source:** Laws 1881, c. 78, subdivision I, § 14, p. 335; R.S.1913, § 6713; C.S.1922, § 6251; C.S.1929, § 79-114; R.S.1943, § 79-127; Laws 1949, c. 256, § 54, p. 711; Laws 1979, LB 187, § 223; Laws 1992, LB 719A, § 180; R.S.1943, (1994), § 79-415; Laws 1996, LB 900, § 235.

Apportionment of assets of school districts upon partial or complete merger, division, or annexation decided. *School Dist.*

*No. 74 of Hall County v. School Dist. of Grand Island*, 186 Neb. 728, 186 N.W.2d 485 (1971).

#### **79-487 Districts; division; part taken over by United States; sale of schoolhouse.**

Whenever, due to the division of any district or due to a district or any part thereof being taken over by the United States for any defense, flood control, irrigation, or war project, the schoolhouse, schoolhouse site, or other property of such district is no longer conveniently located for school purposes or desired to be retained by the district in which it is situated, the county sheriff of the county in which such schoolhouse, schoolhouse site, or other property is located may, when ordered by the district, advertise and sell the same at public or private sale and apportion the proceeds. When sold at private sale, the sale shall not be binding until approved by the district interested.

**Source:** Laws 1881, c. 78, subdivision I, § 13, p. 335; R.S.1913, § 6712; C.S.1922, § 6250; C.S.1929, § 79-113; Laws 1943, c. 197, § 2, p. 664; R.S.1943, § 79-126; Laws 1949, c. 256, § 55, p. 711; R.S. 1943, (1994), § 79-416; Laws 1996, LB 900, § 236; Laws 1999, LB 272, § 65.

Apportionment of assets of school districts upon partial or complete merger, division, or annexation decided. School Dist. No. 74 of Hall County v. School Dist. of Grand Island, 186 Neb. 728, 186 N.W.2d 485 (1971).

**79-488 Districts; reduction in size through acquisition of land by United States; attachment of remainder; apportionment of funds.**

When a district is reduced in size by the purchase or appropriation of land by the United States for any defense, flood control, irrigation, or war project, the district to which such remaining part is attached shall receive a pro rata share of all funds based upon the ratio of taxable valuation of the remaining part to the total taxable valuation of the former district as determined at the last current valuation.

**Source:** Laws 1943, c. 197, § 4, p. 665; R.S.1943, § 79-128.01; Laws 1949, c. 256, § 56, p. 711; Laws 1979, LB 187, § 224; Laws 1992, LB 719A, § 181; R.S.1943, (1994), § 79-417; Laws 1996, LB 900, § 237.

**79-489 New districts; formation from old districts; general indebtedness; duty to consider in dividing property.**

Subject to the provisions of section 79-485, whenever a new district is organized from the territory of a former district and there is any indebtedness of such former district which is not bonded, such unbonded indebtedness shall be taken into account in estimating the sum due from the old district to the new district on account of schoolhouse or other property and the new district shall be entitled to only the value of its proportionate share of such property after deducting its like share of the indebtedness.

**Source:** Laws 1881, c. 78, subdivision I, § 16, p. 336; R.S.1913, § 6715; C.S.1922, § 6253; C.S.1929, § 79-116; R.S.1943, § 79-129; Laws 1949, c. 256, § 57, p. 711; R.S.1943, (1994), § 79-418; Laws 1996, LB 900, § 238.

**79-490 Districts; change in boundary lines; map; report; adjustments in tax list.**

Every change in district boundary lines shall be reported as soon as made by the State Committee for the Reorganization of School Districts to the county clerk, county assessor, and county treasurer. The county clerk shall keep in his or her office a map of the school districts of the county, which map shall be revised as often as the boundary lines or districts are changed or new districts formed. Upon receiving such report from the state committee, the county treasurer shall adjust the tax list of the county in accordance with the change of district boundaries so that the uncollected taxes levied upon property that has been transferred to another school district shall when collected be placed to the credit of the district to which the property has been transferred.

**Source:** Laws 1881, c. 78, subdivision I, § 17, p. 336; Laws 1885, c. 79, § 1, p. 321; R.S.1913, § 6716; C.S.1922, § 6254; C.S.1929, § 79-117; R.S.1943, § 79-130; Laws 1949, c. 256, § 58, p. 712; R.S.1943, (1994), § 79-419; Laws 1996, LB 900, § 239; Laws 1999, LB 272, § 66.

**79-491 Districts; presumption of organization.**

Every school district shall in all cases be presumed to have been legally organized when it has exercised the franchises and privileges of a district for the term of one year.

**Source:** Laws 1881, c. 78, subdivision III, § 8, p. 344; R.S.1913, § 6759; C.S.1922, § 6300; C.S.1929, § 79-308; R.S.1943, § 79-308; Laws 1949, c. 256, § 65, p. 714; R.S.1943, (1994), § 79-426; Laws 1996, LB 900, § 240.

The one-year period provided in this section does not apply during time the validity of organization is in litigation. *Reid v. Slepicka*, 182 Neb. 485, 155 N.W.2d 799 (1968).

After a school district has exercised the franchises and privileges of a district of a certain class for the period of one year, its legal organization will be conclusively presumed. *Griggs v. School District No. 76 of Wayne County*, 152 Neb. 282, 40 N.W.2d 859 (1950).

Presumption of regular organization does not extend to territorial boundaries of a school district. *Majerus v. School District No. 52 of Richardson County*, 139 Neb. 823, 299 N.W. 178 (1941).

After one year of operation, legal organization will be conclusively presumed, whatever may have been defects and irregularities in formation or organization of such district. *State ex rel. School Dist. No. 67 of Kearney County v. School District No. 2 of Kearney County*, 116 Neb. 202, 216 N.W. 663 (1927).

After operation of district for one year, legal organization is presumed. *Kockrow v. Whisenand*, 88 Neb. 640, 130 N.W. 287 (1911).

Presumption of regularity of organization of school district does not preclude contention that tract of land is not within district for tax purposes. *Chicago, B. & Q. R.R. Co. v. Cass County*, 51 Neb. 369, 70 N.W. 955 (1897).

Operation for more than one year cures more than mere irregularities. *State ex rel. School Dist. No. 1 of Sioux County v. School Dist. No. 19 of Sioux County*, 42 Neb. 499, 60 N.W. 912 (1894).

Irregularities in organization are no defense against mandamus to compel payment of bonds. *State ex rel. Hopper v. School Dist. No. 13 of Webster County*, 13 Neb. 466, 14 N.W. 382 (1882); *State ex rel. Gregory v. School Dist. No. 24 of Adams County*, 13 Neb. 78, 12 N.W. 927 (1882).

**79-492 Repealed. Laws 2018, LB377, § 87.**

**79-493 Repealed. Laws 2018, LB377, § 87.**

**79-494 Repealed. Laws 2018, LB377, § 87.**

**79-495 Repealed. Laws 2018, LB377, § 87.**

**79-496 Class IV or Class V school district; obligations of merged districts; assumption.**

Each school district created by merger with other districts shall provide for the payment of debts created by school districts, or other school organizations, superseded by the merged district, when such debts have been incurred in the erection of schoolhouses or for other school purposes. If any portion of such debt is in the form of bonds, if issued for a valuable consideration, the holder or holders thereof, upon surrendering the same to the school board or board of education, shall have the right to demand, and the board in the name of the merged district shall cause to be issued, other bonds of like amount and of like tenor and effect as to payment of principal and interest as the bonds surrendered. This provision shall also apply to cases when only a part of a district is embraced within the merged district whenever the fractional part becomes a part of the merged district. The merged district shall assume and pay only such proportion of debt of divided districts as the taxable valuation of the part taken bears to the taxable valuation of the whole district. This section applies to Class IV and V districts only.

**Source:** Laws 1891, c. 45, § 20, p. 324; R.S.1913, § 7026; C.S.1922, § 6657; C.S.1929, § 79-2720; R.S.1943, § 79-2720; Laws 1949, c. 256, § 223, p. 764; Laws 1979, LB 187, § 236; Laws 1992, LB 719A, § 189; R.S.1943, (1994), § 79-536; Laws 1996, LB 900, § 245.

**79-497 Division of districts within city of primary or metropolitan class; assets and liabilities; adjustment.**

In case of a division of one or more school districts within the corporate limits of a city of the primary or metropolitan class, the president of the school board and the secretary of the school districts shall appraise and adjust all claims or assets in such manner that each district shall bear its proportion of the indebtedness and have its proportion of the assets of the district.

**Source:** Laws 1891, c. 45, § 20, p. 324; R.S.1913, § 7026; C.S.1922, § 6657; C.S.1929, § 79-2720; R.S.1943, § 79-2721; Laws 1949, c. 256, § 224, p. 764; R.S.1943, (1994), § 79-537; Laws 1996, LB 900, § 246; Laws 1999, LB 272, § 68.

**(i) DEPOPULATED DISTRICTS****79-498 Depopulated districts; attachment to adjoining districts; notice; when authorized; waiver of requirements; findings; appeal; distribution of assets.**

When, for a period of one school term, a school district (1) has less than three legal voters residing in the district or (2)(a) fails to maintain a public elementary school within the district in which are enrolled and in regular attendance for at least one thousand thirty-two hours one or more pupils of school age residing in the district, other than option students as defined in section 79-233, or (b) does not contract for the tuition and transportation of pupils of such district with another district or districts and have pupils attending school regularly for at least one thousand thirty-two hours under such contract or contracts, the State Committee for the Reorganization of School Districts shall, subject to the requirements of this section, dissolve such district and attach the territory of such district to one or more neighboring school districts. Before dissolving a district under this section, the state committee shall fix a time for a hearing and shall notify each legal resident of the district at least fifteen days before such hearing. When the dissolution will create extreme hardships on the pupils of the district affected, the State Board of Education may, on application by the school board of the district, annually waive the requirements of this section. Notification shall be by mail or by publication in a newspaper of general circulation in the area.

If the state committee finds that the district is required by this section to be dissolved, it shall enter an order dissolving the district and directing the county clerk of the county in which such district is located to attach the territory of such district to one or more neighboring school districts. Appeals from the action of the state committee may be made to the district court of the county in which the depopulated district is located. The county treasurer shall distribute the assets of the closed district among the other district or districts to which the property has been attached in proportion to the taxable valuation of the property attached to such district or districts.

**Source:** Laws 1897, c. 62, § 2, p. 308; Laws 1909, c. 117, § 2, p. 455; R.S.1913, § 6723; C.S.1922, § 6261; C.S.1929, § 79-124; R.S. 1943, § 79-137; Laws 1949, c. 256, § 59, p. 712; Laws 1953, c. 291, § 2, p. 989; Laws 1955, c. 308, § 1, p. 952; Laws 1955, c. 315, § 5, p. 975; Laws 1959, c. 386, § 1, p. 1336; Laws 1963, c. 478, § 1, p. 1534; Laws 1971, LB 211, § 2; Laws 1979, LB 187,

§ 225; Laws 1985, LB 633, § 1; Laws 1989, LB 183, § 19; Laws 1992, LB 719A, § 182; R.S.1943, (1994), § 79-420; Laws 1996, LB 900, § 247; Laws 1999, LB 272, § 69.

- 1. County superintendent's duties
- 2. Procedure
- 3. Miscellaneous

**1. County superintendent's duties**

County superintendent has mandatory duty to dissolve Class I school district when precedent conditions in this section exist. In re Dissolution of School Dist. No. 22 of Madison County, 216 Neb. 89, 341 N.W.2d 918 (1983).

Statute contemplates that the county superintendent inform himself of the facts before fixing a time for the required public hearing. School Dist. No. 39 of Sarpy County v. Farber, 215 Neb. 791, 341 N.W.2d 320 (1983).

Where conditions precedent enumerated in this section exist, it is mandatory duty of county superintendent to take action unless valid waiver given. Chappell v. Carr, 185 Neb. 158, 174 N.W.2d 208 (1970).

Powers and duties imposed on county superintendent of schools are legislative in character. McDonald v. Rentfrow, 171 Neb. 479, 106 N.W.2d 682 (1960).

County superintendent has duty of attaching territory of district failing to maintain public school for two consecutive years to adjoining districts. State ex rel. Higgs v. Summers, 118 Neb. 189, 223 N.W. 957 (1929).

**2. Procedure**

Action to dissolve district involving transfer of territory across county lines requires the joint action of both county superintendents involved. Lentz v. Saunders, 199 Neb. 3, 255 N.W.2d 853 (1977).

Notice was properly given of intention to dissolve district. Board of Education v. Winne, 177 Neb. 431, 129 N.W.2d 255 (1964).

**3. Miscellaneous**

Litigant who invokes statute to appeal county superintendent's decision to merge may not question its constitutionality in same action. In re Dissolution of School Dist. No. 22 of Madison County, 216 Neb. 89, 341 N.W.2d 918 (1983).

Subject to possible waiver when this section has been invoked, statutory plans for voluntary dissolution cease to be available. Nelson v. Robertson, 187 Neb. 192, 188 N.W.2d 720 (1971).

Amendment to prior act held unconstitutional for failure to provide for notice and an opportunity to be heard. Schutte v. Schmitt, 162 Neb. 162, 75 N.W.2d 656 (1956).

**79-499 Class I, II, or III school district; membership requirements; cooperative programs; when required; plan; ballot issue; when; failure; effect.**

(1) If the fall school district membership or the average daily membership of an existing Class I, II, or III school district shows fewer than forty-five students in grades kindergarten through twelve, the district shall submit a plan for developing cooperative programs with other school districts, 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 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 school districts.

(2) If for two consecutive years the fall school district membership, or for two consecutive years the average daily membership, of an existing Class I, II, or III school district is fewer than forty-five students in grades kindergarten through twelve as determined by the Commissioner of Education, such school district shall, except as provided in subsection (3) of this section, be dissolved pursuant to the procedures described in subdivision (3)(b) of this section through the order of the state committee if the school district is within fifteen miles on a reasonably improved highway of another 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)(a) Any Class I, II, or III school district which is the only public school district in the county and which has a fall school district membership or an average daily membership of fewer than forty-five students in grades kindergarten through twelve shall be subject to this subsection until such school district



reaches a fall school district membership or an average daily membership in grades kindergarten through twelve of at least forty-five students or such school district dissolves. Such school district may continue to operate if:

(i) The plan submitted pursuant to subsection (1) of this section provides a broad-based curriculum as determined by the state committee; and

(ii) At a districtwide election held the second Tuesday of November by whatever means the county conducts balloting, in the second consecutive school year that the fall school district membership for grades kindergarten through twelve is fewer than forty-five students, a majority of voters approve a ballot issue to continue to operate the school district for the immediately following four school years. If such ballot issue succeeds and the school district remains subject to this subsection, such school board or board of education shall conduct a public hearing and, after receiving testimony at the public hearing, vote whether to continue to operate the school district every four years thereafter. If such ballot issue or such vote of the school board or board of education fails, the school district shall be dissolved pursuant to the procedures described in subdivision (3)(b) of this section.

(b) The state committee shall dissolve the school district and attach the territory to other school districts based on the preferences of each landowner if such preference is provided in the time and manner required by the state committee and would transfer such parcels to a school district with a boundary contiguous to the school district being dissolved. Landowners submitting such preferences shall sign a statement that the district of preference is the district which children who might reside on the property, at the time of the dissolution or in the future, would be expected to attend. For property for which a preference is not provided in the time and manner required by the state committee, the state committee shall transfer such property to one or more of the school districts with boundaries contiguous to the district being dissolved in a manner that will best serve children who might reside on such property, at the time of the dissolution or in the future, and that will, to the extent possible, create compact and contiguous districts.

(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 I, II, or III school district shall not count foreign exchange students and nonresident students who are wards of the court or state.

**Source:** Laws 1991, LB 511, § 55; Laws 1992, LB 245, § 53; R.S.1943, (1994), § 79-516.08; Laws 1996, LB 900, § 248; Laws 1996, LB 1050, § 6; Laws 1999, LB 272, § 70; Laws 2005, LB 126, § 36; Referendum 2006, No. 422; Laws 2015, LB477, § 1; Laws 2018, LB377, § 27; Laws 2018, LB1070, § 1; Laws 2020, LB1166, § 1; Laws 2022, LB1057, § 1; Laws 2024, LB1329, § 33.  
Effective date July 19, 2024.

#### Cross References

**Contracting for instruction**, general provisions, see section 79-598.

A school district conversion under subsection (3) of this section (formerly section 79-516.08) is subject to the condition in subsection (2) of this section (formerly section (2)(a) of section 79-516.08) thereof that there be in existence another high school

within 15 miles on a reasonably improved highway. State ex rel. Perkins Cty. Sch. Dist. 65 v. County Superintendent, 247 Neb. 573, 528 N.W.2d 340 (1995).

(j) SPECIAL PROVISIONS FOR AFFILIATED DISTRICTS

**79-4,100 Repealed. Laws 2018, LB377, § 87.**

**79-4,101 Repealed. Laws 2018, LB377, § 87.**

**79-4,102 Repealed. Laws 2018, LB377, § 87.**

**79-4,103 Repealed. Laws 2018, LB377, § 87.**

**79-4,104 Repealed. Laws 2018, LB377, § 87.**

(k) REORGANIZATION STUDIES

**79-4,105 Repealed. Laws 2003, LB 67, § 34.**

**79-4,106 Repealed. Laws 2003, LB 67, § 34.**

**79-4,107 Repealed. Laws 2001, LB 313, § 5.**

(l) UNIFIED SYSTEM

**79-4,108 Unified system; interlocal agreement; contents; application; procedure; effect.**

(1) Unified system means two or more Class I, 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 shall provide:

(a) For a minimum term of three school years;

(b) That all property tax and state aid resources shall be shared by the unified system;

(c) 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 districts participating in the unified system;

(d) 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;

(e) That the participating districts shall 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; and

(f) The permissible method or methods for accomplishing the partial or complete termination of the interlocal agreement and for disposing of assets and liabilities upon such partial or complete termination.

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 I, II, or III district for state aid, budgeting, accreditation, enrollment of students, state programs, and reporting. Except as otherwise required by the department, 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.

(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.

**Source:** Laws 1998, LB 1219, § 9; Laws 1999, LB 813, § 10; Laws 2001, LB 797, § 12; Laws 2005, LB 126, § 38; Referendum 2006, No. 422; Laws 2008, LB988, § 5; Laws 2010, LB711, § 1; Laws 2010, LB1071, § 6; Laws 2018, LB377, § 28; Laws 2024, LB1329, § 34.

Effective date July 19, 2024.

#### Cross References

**Interlocal Cooperation Act**, see section 13-801.

**Nebraska Budget Act**, see section 13-501.

**79-4,109 Repealed. Laws 2018, LB377, § 87.**

**79-4,110 Repealed. Laws 2018, LB377, § 87.**

**79-4,111 Repealed. Laws 2018, LB377, § 87.**

(m) REORGANIZATION OF CLASS I AND VI SCHOOL DISTRICTS

**79-4,112 Repealed. Referendum 2006, No. 422.**

**79-4,113 Repealed. Referendum 2006, No. 422.**

**79-4,114 Repealed. Referendum 2006, No. 422.**

**79-4,115 Repealed. Referendum 2006, No. 422.**

**79-4,116 Repealed. Referendum 2006, No. 422.**

(n) LEARNING COMMUNITY REORGANIZATION ACT

**79-4,117 Act, how cited.**

Sections 79-4,117 to 79-4,129 shall be known and may be cited as the Learning Community Reorganization Act.

**Source:** Laws 2006, LB 1024, § 28; Laws 2007, LB641, § 5.

**79-4,118 Terms, defined.**

For purposes of the Learning Community Reorganization Act:

(1) Learning community has the definition found in section 79-2101;

(2) Reorganization of school districts means the formation of new school districts that will become members of a learning community, the alteration of boundaries of established school districts that are members of a learning community, the dissolution or disorganization of established school districts that are members of a learning community through or by means of any one or combination of the methods set out in section 79-4,120, and any other alteration of school district boundaries involving a school district that is a member of a learning community; and

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

**Source:** Laws 2006, LB 1024, § 29.

**79-4,119 Reorganization; provisions applicable.**

Any reorganization of school districts that affects a school district that is a member of a learning community, except dissolutions pursuant to section 79-470, 79-498, 79-499, or 79-598, shall only be accomplished pursuant to the Learning Community Reorganization Act.

**Source:** Laws 2006, LB 1024, § 30; Laws 2016, LB1067, § 20.

**79-4,120 Methods authorized.**

Reorganization of school districts pursuant to the Learning Community Reorganization Act 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 dissolution or disorganization of an established district for any of the reasons specified by law.

**Source:** Laws 2006, LB 1024, § 31.

**79-4,121 Plan review; state committee; considerations.**

In the review of a plan for the reorganization of school districts pursuant to the Learning Community Reorganization Act, the state committee shall give due consideration to (1) the educational needs of pupils in the learning community, (2) economies in administration costs, (3) the future use of existing satisfactory school buildings, sites, and play fields, (4) the convenience and welfare of pupils, (5) transportation requirements, (6) the equalization of the educational opportunity of pupils, (7) the amount of outstanding indebtedness of each district and proposed disposition thereof, (8) the equitable adjustment of all property, debts, and liabilities among the districts involved, (9) any additional statutory requirements for learning community organization, and (10) any other matters which, in its judgment, are of importance.

**Source:** Laws 2006, LB 1024, § 32; Laws 2016, LB1067, § 21.

**79-4,122 Public hearings; record; notice.**

Before any plan of reorganization is approved by the state committee pursuant to the Learning Community Reorganization Act, the state committee shall hold one or more public hearings. At such hearings, the state committee shall hear any and all persons interested with respect to the areas of consideration listed in section 79-4,121. The state committee shall keep a record of all hearings in the formulation or approval of plans for the reorganization of school districts. Notice of such public hearings of the state committee shall be given by publication in a legal newspaper of general circulation in the county or counties in which the affected districts are located at least ten days prior to such hearing.

**Source:** Laws 2006, LB 1024, § 33; Laws 2016, LB1067, § 22.

**79-4,123 Plan of reorganization; contents.**

After one or more public hearings have been held, the state committee may approve a plan or plans of reorganization pursuant to the Learning Community Reorganization Act. Such plan shall contain:

(1) A description of the proposed boundaries of the reorganized districts and a designation of the class for each district;

(2) A summary of the reasons for each proposed change, realignment, or adjustment of the boundaries which shall include, but not be limited to, an explanation of how the plan complies with any statutory requirements for learning community organization and an assurance that the plan does not increase the geographic size of any school district that has more than twenty-five thousand formula students for the most recent certification of state aid pursuant to section 79-1022;

(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, a determination of the number of members to be appointed to the initial school board, and a determination of the terms of the board members first appointed to membership on the board of the newly reorganized district;

(4) 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;

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

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

**Source:** Laws 2006, LB 1024, § 34; Laws 2014, LB946, § 38; Laws 2016, LB1067, § 23; Laws 2018, LB377, § 29.

**79-4,124 State committee; notification.**

The state committee shall, within thirty days after holding the hearings provided for in section 79-4,122, notify the affected school districts whether or not it approves or disapproves such plan or plans.

**Source:** Laws 2006, LB 1024, § 35; Laws 2016, LB1067, § 24.

**79-4,125 Disapproved plan; return to affected school districts.**

If the state committee disapproves the plan pursuant to the Learning Community Reorganization Act, it shall be considered a disapproved plan and returned to the affected school districts as a disapproved plan.

**Source:** Laws 2006, LB 1024, § 36; Laws 2007, LB641, § 6; Laws 2016, LB1067, § 25.

**79-4,126 School district in learning community; plan of reorganization; submitted to state committee; approved plan; procedure.**

(1) The school board of any school district in a learning community may propose a plan of reorganization. When at least sixty percent of the members of the school board of each affected school district vote to approve the plan, such plan may be submitted to the state committee. When any area is added or removed from any school district in a learning community as part of a plan, such school district shall be deemed an affected school district.

(2) When a plan of reorganization or any part thereof has been approved by the state committee pursuant to the Learning Community Reorganization Act, it shall be designated as the final approved plan and shall be submitted to the county clerk pursuant to section 79-4,128 and to school boards of the affected school districts.

**Source:** Laws 2006, LB 1024, § 37; Laws 2007, LB641, § 7; Laws 2016, LB1067, § 26.

**79-4,127 Indebtedness.**

Whenever two or more school districts are involved in a reorganization plan pursuant to the Learning Community Reorganization Act, 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.

**Source:** Laws 2006, LB 1024, § 38.

**79-4,128 County clerk; duties; filings required.**

If the plan of reorganization is approved by the state committee pursuant to the Learning Community Reorganization Act, the county clerk shall proceed to cause the changes, realignment, and adjustment of districts to be carried out as provided in the plan. The county clerk shall classify the school districts according to the plan of reorganization. He or she shall also file certificates with the county assessor, county treasurer, learning community coordinating council, and state committee showing the boundaries of the various districts under the approved plan of reorganization.

**Source:** Laws 2006, LB 1024, § 39; Laws 2007, LB641, § 8; Laws 2016, LB1067, § 27.

**79-4,129 State committee; duties; school board; appointments; terms; duties.**

(1) Within thirty days after the classification of the reorganized school districts by the county clerk under section 79-4,128, the state committee shall appoint from among the legal voters of each new school district created the number of school board members specified in the plan of reorganization. A reorganized school district shall be formed and organized and shall have a school board not later than April 1 following the last legal action, as prescribed in section 79-4,128, necessary to effect the changes in boundaries as set forth in the plan of reorganization, although the physical reorganization of such reorganized school district shall take effect July 1 following the classification of the reorganized school districts under section 79-4,128. The first board shall be appointed on an at-large basis, and all boards shall be elected at large until such time as election districts are established as provided in section 32-554.

(2) In appointing the first school board of a Class I, II, or III school district, the terms of approximately one-half of the members shall expire on the first Thursday after the first Tuesday in January after the first even-numbered year following their appointment and the terms of the remaining members shall expire on the first Thursday after the first Tuesday in January after the second even-numbered year following their appointment. Thereafter all Class I, II, or III district school boards shall be elected to terms of four years.

(3) In appointing the first school board of a Class IV school district, the members shall be appointed so that the terms of three members shall expire on the third Monday in May of the first odd-numbered year following their appointment and the terms of four members shall expire on the third Monday in May of the second odd-numbered year following their appointment. Thereafter all Class IV district school boards shall be elected to terms of four years.

(4) In appointing the first school board of a Class V school district after a reorganization under this section with a nine-member board serving terms of four years, the terms of the members shall expire as provided in section 32-545. All Class V district school boards shall be elected to terms of four years.

(5) The school boards appointed under this section shall proceed at once to organize in the manner prescribed by law.

**Source:** Laws 2006, LB 1024, § 40; Laws 2013, LB125, § 5; Laws 2014, LB946, § 39; Laws 2018, LB377, § 30; Laws 2024, LB1329, § 35.

Effective date July 19, 2024.

**79-4,130 Repealed. Laws 2007, LB 641, § 54.**

**SCHOOLS**  
**ARTICLE 5**  
**SCHOOL BOARDS**

**Cross References**

**For provisions of law governing conflict of interest on contracts**, see sections 49-14,102 to 49-14,103.07.

**Learning community coordinating councils:**

Election, membership, terms, see section 32-546.01.

Powers and duties, see section 79-2101 et seq.

**Local health department provisions**, when applicable, see section 71-1636.

(a) SCHOOL BOARD POWERS

Section	
79-501.	School board; property; maintenance; hiring of superintendent, teachers, and personnel.
79-502.	Repealed. Laws 2008, LB 850, § 5.
79-503.	Year-round operation of public schools; legislative intent.
79-504.	Year-round operation of public schools; conversion; procedure.
79-505.	Year-round operation of public schools; notice to State Board of Education.
79-506.	Insurance coverage; authorized.
79-507.	Repealed. Laws 1998, Spec. Sess., LB 1, § 63.
79-508.	Repealed. Laws 1998, Spec. Sess., LB 1, § 63.
79-509.	Repealed. Laws 1998, Spec. Sess., LB 1, § 63.
79-510.	Repealed. Laws 1998, Spec. Sess., LB 1, § 63.
79-511.	Repealed. Laws 1998, Spec. Sess., LB 1, § 63.
79-512.	Associations of school boards; membership dues; payment authorized.
79-513.	Legal services; payment authorized.
79-514.	Retirement annuity contracts; purchase; contributions to retirement plans; withholding of salary.
79-515.	Contracts for services, supplies, and collective-bargaining agreements; authorized.
79-516.	School board; power to indemnify; liability insurance; purchase.
79-517.	School activities pass; volunteer, defined.
79-518.	School activities pass; authorized; when.
79-519.	Repealed. Laws 2018, LB377, § 87.
79-520.	Class I, II, or III school district; board of education; selection of officers; rules and regulations; compensation.
79-521.	Class IV school district; board of education; officers; rules and regulations; taking of testimony.
79-522.	Class V school district; board of education; officers; rules and regulations; testimony; power to compel.
79-523.	Repealed. Laws 2018, LB377, § 87.
79-524.	Class I, II, III, or IV school district; permanent and continuing census.

(b) SCHOOL BOARD DUTIES

79-525.	Class I, II, III, or IV school district; school board; duty to maintain schoolhouse; accounts.
79-526.	Class I, II, III, or IV school district; school board; schools; supervision and control; powers.
79-527.	Repealed. Laws 2019, LB675, § 57.
79-527.01.	Repealed. Laws 2017, LB512, § 41.
79-528.	Reports; filing requirements; contents.
79-529.	Failure to file annual financial report; use of other reports.
79-530.	Involvement of parents, guardians, and educational decisionmakers; term, defined; legislative findings.
79-531.	Involvement of parents, guardians, and educational decisionmakers; public school district; adopt policy.
79-532.	Involvement of parents, guardians, and educational decisionmakers; policy; contents.
79-533.	Involvement of parents, guardians, and educational decisionmakers; policy; hearing; review.
79-533.01.	Involvement of parents, guardians, and educational decisionmakers; policy; accessibility.



## SCHOOL BOARDS

- Section  
79-533.02. Involvement of parents, guardians, and educational decisionmakers; learning materials; availability.  
79-533.03. Involvement of parents, guardians, and educational decisionmakers; noncompliance of school district; remedial action.  
79-534. Class I, II, or III school district; board of education.  
79-535. Class V school districts; control; powers.  
79-536. Summer school; children in school system; unsatisfactory progress; summer school sessions; curricula.  
79-537. Class V school district; school board; school census; duty to take.  
79-538. Student identification cards; requirements.  
79-539. School board; board of education; official policy respecting personnel files and student records; rules and regulations; adopt; publish; restrictions.

### (c) SCHOOL BOARD ELECTIONS AND MEMBERSHIP

- 79-540. Repealed. Laws 2018, LB377, § 87.  
79-541. Repealed. Laws 2018, LB377, § 87.  
79-542. Repealed. Laws 2018, LB377, § 87.  
79-543. School board member; qualifications.  
79-544. School board members; contract to teach prohibited.  
79-545. District officers; vacancy.  
79-546. School board, board of education, or other governing board; reimbursement for expenses.  
79-547. Class I, II, or III school district; school board; board of education; members; number.  
79-548. Repealed. Laws 2018, LB377, § 87.  
79-549. School board; Class I, II, or III school district; members; caucus or election; procedure.  
79-550. Class I, II, or III school district elections; change number of board members; resolution; contents; change manner of election.  
79-551. Class IV school district; board of education; members; election; student member.  
79-552. Class V school district; board of education; members; election by district; procedure; qualifications.  
79-553. Repealed. Laws 2018, LB377, § 87.

### (d) SCHOOL BOARD MEETINGS AND PROCEDURES

- 79-554. Class I, II, or III school district; school board; quorum; meetings; open to public.  
79-555. Class I, II, or III school district; board of education; meetings; when held.  
79-556. Repealed. Laws 2018, LB377, § 87.  
79-557. Repealed. Laws 2018, LB377, § 87.  
79-558. Repealed. Laws 2018, LB377, § 87.  
79-559. Class I, II, III, or IV school district; school board or board of education; student member; term; qualifications.  
79-560. Class IV school district; board of education; meetings; open to public.  
79-561. Class V school district; board of education; meetings; open to public.  
79-562. Class V school district; board of education; meetings; quorum; attendance, how compelled; absence; effect.  
79-563. Repealed. Laws 2018, LB377, § 87.

### (e) SCHOOL BOARD OFFICERS

- 79-564. Class I, II, or III school district; school board; officers; elect.  
79-565. Repealed. Laws 2018, LB377, § 87.  
79-566. Class IV school district; board of education; officers; employees, selection.  
79-567. Class V school district; board of education; officers and employees; selection; terms.  
79-568. Repealed. Laws 2018, LB377, § 87.  
79-569. Class I, II, III, or IV school district; president; powers and duties.  
79-570. Class I, II, III, or IV school district; president; meetings; maintenance of order.  
79-571. Class III or IV school district; meetings; disorderly conduct; penalty.

## SCHOOLS

- Section  
79-572. Class I, II, III, or IV school district; president; actions for or against district; appearance required.
- 79-573. Class V school district; school board; president; duties.
- 79-574. Class V school district; school elections; notice; duty of president to give.
- 79-575. Secretary; disbursements; how made.
- 79-576. Class I, II, III, or IV school district; secretary; duty as clerk of board.
- 79-577. Class I, II, III, or IV school district; secretary; books, records, and reports; duty to preserve.
- 79-578. Class I, II, III, or IV school district; secretary; school census; duty to take; time allowed.
- 79-579. Class I, II, III, or IV school district; district officers; disputes over orders; county attorney; duty to investigate; mandamus.
- 79-580. Class I, II, or III school district; board of education; claims against; record of proceedings; secretary; duty to publish.
- 79-581. Class I, II, or III school district; publication of claims and summary of proceedings; noncompliance by secretary; penalty.
- 79-582. Class IV school district; secretary of the board of education; duties.
- 79-583. Class V school district; school board; secretary; oath; bond; duties.
- 79-584. Class V school district; board of education; disbursements; how made; accounts; audit.
- 79-585. Repealed. Laws 2018, LB377, § 87.
- 79-586. Class I, II, III, or IV school district; treasurer; bond or insurance; filing; failure to give; effect.
- 79-587. Class I, II, III, or IV school district; treasurer; district funds; receipt and disbursement.
- 79-588. Class I, II, III, or IV school district; treasurer; records and reports required; delivery upon expiration of office.
- 79-589. Board of education; Class I, II, or III school district outside of city or village or more than one-half of district within a city of metropolitan class; treasurer; bond or insurance; duties.
- 79-590. Class I, II, or III school district; board of education; treasurer; duties; bond or insurance; compensation.
- 79-591. Class IV school district; treasurer; duties; reports; bond or insurance.
- 79-592. Class V school district; treasurer; bond or insurance; duties.
- 79-593. Class V school district; board of education; vice president; duties.
- 79-594. Class I, II, III, or IV school district; superintendent; appointment; salary; term.
- 79-595. Class IV school district; associate superintendent of business affairs; duties.
- 79-596. Class IV school district; associate superintendent of business affairs; bond.
- 79-597. Class IV school district; accounts; audit; disbursements; how made.
- (f) PROVIDING EDUCATION OUTSIDE THE DISTRICT
- 79-598. Pupils; instruction in another district; contracts authorized; contents; cost per pupil; determination; transportation; attendance reports; noncompliance penalties; dissolution of district.
- 79-599. Pupil; attend school in adjoining state; application; contents.
- 79-5,100. Pupil; attend school in adjoining state; application; procedure; authorization, when.
- 79-5,101. Pupil; attend school in adjoining state; reciprocity required.
- 79-5,102. Pupil; attend school in adjoining state; tuition; payment by sending district.
- 79-5,103. Pupil; attend school in adjoining state; records; costs; determination.
- 79-5,104. Class I, II, or III school district; tuition of pupil attending school outside of district; payment, when.
- 79-5,105. Class I, II, III, IV, or V school district; children residing on federal property; contracts with federal government for instruction; supervisory services of districts; maintenance and operation of schools.
- 79-5,106. Class I, II, III, IV, or V school district; children residing on federal property; contracts with federal government for instruction; effect of existing available facilities.
- 79-5,107. Repealed. Laws 2018, LB377, § 87.
- 79-5,108. Repealed. Laws 2018, LB377, § 87.

Section

(g) PROHIBITED ACTS

79-5,109. Debt collection agency; interest, fees, monetary penalties; prohibited, when.

(a) SCHOOL BOARD POWERS

**79-501 School board; property; maintenance; hiring of superintendent, teachers, and personnel.**

The school board or board of education of a Class I, II, III, or IV school district shall have the care and custody of the schoolhouse and other property of the district and shall have authority to hire a superintendent and the required number of teachers and other necessary personnel.

**Source:** Laws 1881, c. 78, subdivision V, § 9, p. 354; R.S.1913, § 6789; C.S.1922, § 6330; C.S.1929, § 79-509; R.S.1943, § 79-509; Laws 1949, c. 256, § 80, p. 719; Laws 1971, LB 292, § 8; R.S.1943, (1994), § 79-441; Laws 1996, LB 900, § 254; Laws 2018, LB377, § 31; Laws 2024, LB1329, § 36.  
Effective date July 19, 2024.

Members of school board act in a representative capacity and not as individuals. Greer v. Chelewski, 162 Neb. 450, 76 N.W.2d 438 (1956).

School board has no authority to build additions which are not repairs. School Dist. No. 35 of Sherman County v. Randolph, 57 Neb. 546, 77 N.W. 1073 (1899).

**79-502 Repealed. Laws 2008, LB 850, § 5.**

**79-503 Year-round operation of public schools; legislative intent.**

It is the intent of the Legislature to promote increased efficiency in the utilization of public schoolhouses and other school facilities by providing for a program of year-round operation of the public schools of this state. The Legislature finds that the cost of education is substantially increased when schoolhouses sit idle for three months of the year and that the rural and pioneer conditions which dictated summer closing of public schools no longer prevail in many of the school districts of the state.

**Source:** Laws 1973, LB 65, § 1; Laws 1993, LB 348, § 7; R.S.1943, (1994), § 79-201.01; Laws 1996, LB 900, § 256.

**79-504 Year-round operation of public schools; conversion; procedure.**

Any public school district in this state may convert any or all of the schools in the district to year-round operation under sections 79-503 to 79-505 upon an affirmative vote of at least seventy-five percent of the school board or board of education. The vote shall be taken at a public meeting of the board following a special public hearing called for the purpose of receiving testimony on such conversion. The board shall give at least seven calendar days' notice of the time, place, and purpose of such hearing and shall publish such notice at least once in a newspaper of general circulation in the school district. Such schools shall meet all State Board of Education rules and regulations pertaining to accreditation.

**Source:** Laws 1973, LB 65, § 2; Laws 1993, LB 348, § 8; R.S.1943, (1994), § 79-201.02; Laws 1996, LB 900, § 257.

**79-505 Year-round operation of public schools; notice to State Board of Education.**

No public school district shall convert to a year-round operation without notifying the State Board of Education of compliance with sections 79-503 to 79-505.

**Source:** Laws 1973, LB 65, § 3; Laws 1993, LB 348, § 9; R.S.1943, (1994), § 79-201.03; Laws 1996, LB 900, § 258.

**79-506 Insurance coverage; authorized.**

The school board or board of education of any school district may permit its members to participate in the school district's hospitalization, medical, surgical, accident, sickness, or term life insurance coverage or any one or more of such coverages. A board member electing to participate in the insurance program of the school district shall pay both the employee and the employer portions of the premium for such coverage.

A school board or board of education which opts to permit its members to participate in insurance coverage under this section shall report quarterly at a board meeting the board members who have elected such coverage. Such a report shall be made available in the school district office for review by the public upon request.

**Source:** Laws 2008, LB850, § 1; Laws 2018, LB377, § 32.

**79-507 Repealed. Laws 1998, Spec. Sess., LB 1, § 63.**

**79-508 Repealed. Laws 1998, Spec. Sess., LB 1, § 63.**

**79-509 Repealed. Laws 1998, Spec. Sess., LB 1, § 63.**

**79-510 Repealed. Laws 1998, Spec. Sess., LB 1, § 63.**

**79-511 Repealed. Laws 1998, Spec. Sess., LB 1, § 63.**

**79-512 Associations of school boards; membership dues; payment authorized.**

The school board or board of education of any school district in this state may pay from its school funds an amount to be determined by the board for membership dues in associations of school boards or boards of education.

**Source:** Laws 1957, c. 345, § 1, p. 1188; R.S.1943, (1994), § 79-4,149; Laws 1996, LB 900, § 265.

**79-513 Legal services; payment authorized.**

The school board or board of education of any school district in this state may pay from its school funds for the legal services of an attorney employed by the board when it deems legal counsel necessary or advisable.

**Source:** Laws 1957, c. 345, § 2, p. 1188; R.S.1943, (1994), § 79-4,150; Laws 1996, LB 900, § 266.

**79-514 Retirement annuity contracts; purchase; contributions to retirement plans; withholding of salary.**

(1) The school board or board of education of any school district has the authority to (a) purchase retirement annuity contracts for any or all of its employees from any insurance company licensed to do business in the State of Nebraska, (b) enter into contracts with its employees providing for the purchase

by it of such retirement annuity contracts, (c) provide for the purchase by it of such retirement annuity contracts in the general contract of employment with any or all of its employees, or (d) for the purposes of separation payments made at retirement and early retirement inducements, make contributions picked up under section 414(h) of the Internal Revenue Code to plans under section 401(a) or 403(a) of the code and make contributions to plans under section 403(b) of the code.

(2) Nothing in this section nor any other provision of Chapter 79 shall be construed to authorize a school board or board of education of any school district to offer a separate plan classified as a qualified plan under section 401(a) of the Internal Revenue Code unless specifically listed in this section.

(3) When necessary in connection with the purchase of retirement annuity contracts, any such employee may execute an order authorizing the withholding of necessary amounts from any wages or salary payable to the employee and such order and revocation thereof shall be executed in the manner and form required by section 44-1609.

**Source:** Laws 1963, c. 465, § 1, p. 1493; R.S.1943, (1994), § 79-4,152; Laws 1996, LB 900, § 267; Laws 2005, LB 329, § 1.

**79-515 Contracts for services, supplies, and collective-bargaining agreements; authorized.**

The school board or board of education of any school district may enter into contracts under such terms and conditions as the board deems appropriate, for periods not to exceed seven years, for the provision of utility services, refuse disposal, transportation services, maintenance services, financial services, insurance, security services, and instructional materials, supplies, and equipment and, for periods not to exceed four years, for collective-bargaining agreements with employee groups. This section does not permit multiyear contracts with individual school district employees.

**Source:** Laws 1984, LB 333, § 1; R.S.1943, (1994), § 79-4,154.01; Laws 1996, LB 900, § 268; Laws 2019, LB675, § 3.

A contract continuation clause does not create a contract of indefinite duration in violation of this section. Central City Ed. Assn. v. Merrick Cty. Sch. Dist., 280 Neb. 27, 783 N.W.2d 600 (2010).

**79-516 School board; power to indemnify; liability insurance; purchase.**

(1) For purposes of this section, (a) school board has the definition found in section 79-101 and (b) school district has the definition found in such section.

(2) A school district may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, other than an action by or in the right of the school district, by reason of the fact that such person is or was a school board member or an officer, employee, or agent of the school district, against expenses, including attorney's fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit, or proceeding if such person acted in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the school district and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction or upon a plea

of nolo contendere or its equivalent shall not of itself create a presumption that such person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the school district and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

(3) A school district may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the school district to procure a judgment in its favor by reason of the fact that such person is or was a school board member or an officer, employee, or agent of the school district, against expenses, including attorney's fees, actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the school district, except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person was adjudged to be liable for negligence or misconduct in the performance of his or her duty to the school district unless and only to the extent that the court in which such action or suit was brought determines upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court deems proper.

(4) To the extent that a school board member or an officer, employee, or agent of a school district has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in subsections (2) and (3) of this section or in defense of any claim, issue, or matter in such action, suit, or proceeding, he or she shall be indemnified against expenses, including attorney's fees, actually and reasonably incurred by him or her in connection with such defense.

(5) Any indemnification under such subsections, unless ordered by a court, shall be made by the school district only as authorized in the specific case upon a determination that indemnification of the school board member or the officer, employee, or agent of the school district is proper in the circumstances because he or she has met the applicable standard of conduct set forth in such subsections. Such determination shall be made by the school board members by a majority vote of a quorum consisting of school board members who were not parties to such action, suit, or proceeding or, if such a quorum is not obtainable or even if obtainable a quorum of disinterested board members so directs, by independent legal counsel in a written opinion.

(6) Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the school district in advance of the final disposition of such action, suit, or proceeding as authorized in the manner provided in subsection (5) of this section upon receipt of an undertaking by or on behalf of the school board member or the officer, employee, or agent of the school district to repay such amount unless it is ultimately determined that he or she is entitled to be indemnified by the school district as authorized in this section.

(7) The indemnification provided by this section shall not be deemed exclusive of any other rights to which the person indemnified may be entitled under any agreement, either as to action in his or her official capacity or as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a school board member or an officer, employee, or agent

of the school district and shall inure to the benefit of the heirs, executors, and administrators of such person.

(8) A school district may purchase and maintain insurance on behalf of any person who is or was a school board member or an officer, employee, or agent of the school district against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the school district would have the power to indemnify him or her against such liability under this section.

**Source:** Laws 1973, LB 475, § 1; Laws 1987, LB 285, § 1; Laws 1993, LB 239, § 1; R.S.1943, (1994), § 79-4,155; Laws 1996, LB 900, § 269.

The school district is not required to indemnify its board members and it may not do so if the action against the board members is by or in the right of the school district. School districts have the authority to purchase insurance. *Sandy Creek P.S. v. St. Paul Surplus Lines Ins. Co.*, 222 Neb. 424, 384 N.W.2d 279 (1986).

#### **79-517 School activities pass; volunteer, defined.**

For purposes of section 79-518, volunteer means a person who is not an elected or appointed official or employee of a school district who, at the request or with the permission of the school board or board of education of the school district, engages in activities related to the purposes and functions of the school district or for its general benefit.

**Source:** Laws 1994, LB 1310, § 8; R.S.1943, (1994), § 79-4,246; Laws 1996, LB 900, § 270.

#### **79-518 School activities pass; authorized; when.**

The school board or board of education of any school district may authorize the issuance of a pass to any elected or appointed official, employee, retired employee, or volunteer of the district, member of a senior citizens group, or city official authorizing the admittance of the recipient of the pass and his or her spouse to recognized school activities without the need for the payment of any fee or charge. Such pass may be issued at no cost to the recipient or at such cost as may be designated by the board.

**Source:** Laws 1994, LB 1310, § 7; R.S.1943, (1994), § 79-4,247; Laws 1996, LB 900, § 271.

#### **79-519 Repealed. Laws 2018, LB377, § 87.**

#### **79-520 Class I, II, or III school district; board of education; selection of officers; rules and regulations; compensation.**

The board of education of a Class I, II, or III school district has power to select its own officers and make its own rules and regulations not inconsistent with any statute applicable to such district. No member of the board, except the secretary, shall accept or receive any compensation for services performed in discharging the duties of his or her office.

**Source:** Laws 1881, c. 78, subdivision XIV, § 7, p. 379; Laws 1899, c. 62, § 8, p. 293; Laws 1901, c. 63, § 9, p. 440; R.S.1913, § 6954; C.S.1922, § 6588; C.S.1929, § 79-2507; R.S.1943, § 79-2509; Laws 1949, c. 256, § 240, p. 771; R.S.1943, (1994), § 79-807; Laws 1996, LB 900, § 273; Laws 2024, LB1329, § 37.  
Effective date July 19, 2024.

**79-521 Class IV school district; board of education; officers; rules and regulations; taking of testimony.**

The board of education of a Class IV school district has power to select its own officers and make rules and regulations necessary to carry out the board's legal duties. The board of education, or any committee of the members of the board, has power to compel the attendance of witnesses for the investigation of matters that may come before them. The presiding officer of the board of education or the chairperson of such committee may administer the requisite oaths, and such board or committee has the same authority to compel the giving of testimony as is conferred on courts of justice.

**Source:** Laws 1949, c. 256, § 211, p. 760; R.S.1943, (1971), § 79-524; Laws 1971, LB 450, § 3; R.S.1943, (1994), § 79-907; Laws 1996, LB 900, § 274.

**79-522 Class V school district; board of education; officers; rules and regulations; testimony; power to compel.**

The board of education of a Class V school district has power to select its own officers and make its rules and regulations. The board or any committee of the members of the board has power to compel the attendance of witnesses for the investigation of matters that may come before it. The presiding officer of the board or the chairperson of such committee for the time being may administer the requisite oaths, and such board or committee has the same authority to compel the giving of testimony as is conferred on courts of justice.

**Source:** Laws 1891, c. 45, § 7, p. 319; R.S.1913, § 7015; C.S.1922, § 6646; C.S.1929, § 79-2709; R.S.1943, § 79-2709; Laws 1949, c. 256, § 255, p. 777; R.S.1943, (1994), § 79-1003.04; Laws 1996, LB 900, § 275.

The board of education is authorized to make rules and regulations. *Galstan v. School Dist. of Omaha*, 177 Neb. 319, 128 N.W.2d 790 (1964).

**79-523 Repealed. Laws 2018, LB377, § 87.****79-524 Class I, II, III, or IV school district; permanent and continuing census.**

The school board of any Class I, II, III, or IV school district shall establish a permanent and continuing census or enumeration of school children in the school district. The list in writing of the names of the children and taxpayers shall not be required to be reported, but the names of all of the children belonging to such school district, from birth through twenty years of age, shall instead be kept in a depository maintained by such school district and subject to inspection at all times. Such record shall not or need not include the names of all the taxpayers in the district.

**Source:** Laws 1996, LB 900, § 277; Laws 1999, LB 272, § 72; Laws 2018, LB377, § 33; Laws 2024, LB1329, § 38.  
Effective date July 19, 2024.

Courts will take judicial notice of census. *Kokes v. State ex rel. Koupal*, 55 Neb. 691, 76 N.W. 467 (1898).

Record is best evidence on question of enumeration. *State ex rel. Vale v. School Dist. of City of Superior*, 55 Neb. 317, 75 N.W. 855 (1898).



## (b) SCHOOL BOARD DUTIES

**79-525 Class I, II, III, or IV school district; school board; duty to maintain schoolhouse; accounts.**

The school board or board of education of a Class I, II, III, or IV school district shall (1) provide the necessary appendages for the schoolhouse, (2) keep the same in good condition and repair during the time school is taught in the schoolhouse, and (3) keep an accurate account of all expenses incurred. Such account shall be prepared by the secretary, audited by the president and treasurer, and, on their written order, paid out of the general school fund.

**Source:** Laws 1881, c. 78, subdivision IV, § 13, p. 349; R.S.1913, § 6775; C.S.1922, § 6316; C.S.1929, § 79-413; R.S.1943, § 79-415; Laws 1949, c. 256, § 79, p. 719; R.S.1943, (1994), § 79-440; Laws 1996, LB 900, § 278; Laws 2018, LB377, § 34; Laws 2024, LB1329, § 39.

Effective date July 19, 2024.

This section (formerly section 79-440) gives a school district the power to provide necessary appendages to the schoolhouse and to secure the regular attendance of students at school; necessarily implied in this section is the power to construct an access road when the only party in a position to build the road in the necessary timeframe is the school district. *Robertson v. School Dist. No. 17 of Douglas County*, 252 Neb. 103, 560 N.W.2d 469 (1997).

Claim for transportation should be filed with secretary of district. *George v. School Dist. No. 24 of Red Willow County*, 157 Neb. 791, 61 N.W.2d 401 (1953).

Board was not authorized to purchase residence for teachers. *Fulk v. School District No. 8 of Lancaster County*, 155 Neb. 630, 53 N.W.2d 56 (1952).

Duty to make necessary repairs to school building is vested in school board without special authority from voters. *Morfeld v. Huddin*, 131 Neb. 180, 267 N.W. 350 (1936).

Director, with consent of moderator, may contract for repairs during vacation. *Leonard v. State ex rel. Tressler*, 67 Neb. 635, 93 N.W. 988 (1903).

Architect's fees for plans for new building are general expense. *Fiske v. School Dist. of City of Lincoln*, 59 Neb. 51, 80 N.W. 265 (1899), reversing on rehearing 58 Neb. 163, 78 N.W. 392 (1899).

**79-526 Class I, II, III, or IV school district; school board; schools; supervision and control; powers.**

(1) The school board or board of education of a Class I, II, III, or IV school district has responsibility for the general care and upkeep of the schools, shall provide the necessary supplies and equipment, and, except as otherwise provided, has the power to cause pupils to be taught in such branches and classified in such grades or departments as may seem best adapted to a course of study which the board shall establish with the consent and advice of the State Department of Education. The board shall make provision for pupils that may enter at any time during the school year. The board shall have a record kept of the advancement of all pupils in each branch of study. The board shall make rules and regulations as it deems necessary for the government and health of the pupils and devise any means as may seem best to secure the regular attendance and progress of children at school.

(2) The school board may make expenditures for supplies, equipment, travel, meals, and lodging for school programs and activities, including extracurricular and interscholastic activities, appropriate for the benefit, government, and health of pupils enrolled in the school district.

**Source:** Laws 1881, c. 78, subdivision V, § 3, p. 352; Laws 1883, c. 72, § 10, p. 293; Laws 1901, c. 61, § 1, p. 433; R.S.1913, § 6783; Laws 1919, c. 151, § 1, p. 339; C.S.1922, § 6324; C.S.1929, § 79-503; R.S.1943, § 79-503; Laws 1945, c. 202, § 1, p. 611; Laws 1949, c. 256, § 82, p. 719; R.S.1943, (1994), § 79-443; Laws

1996, LB 900, § 279; Laws 1997, LB 347, § 15; Laws 2014, LB967, § 5; Laws 2018, LB377, § 35; Laws 2024, LB1329, § 40.  
Effective date July 19, 2024.

This section (formerly section 79-443) gives a school district the power to provide necessary appendages to the schoolhouse and to secure the regular attendance of students at school; necessarily implied in this section is the power to construct an access road when the only party in a position to build the road in the necessary timeframe is the school district. *Robertson v. School Dist. No. 17 of Douglas County*, 252 Neb. 103, 560 N.W.2d 469 (1997).

In devising such means as may seem best to secure the regular attendance and progress of children at school, a school board may choose to provide bus transportation. *School Dist. of Waterloo v. Hutchinson*, 244 Neb. 665, 508 N.W.2d 832 (1993).

This section imposes no duty on school boards to provide actual bus service to students. *Warren v. Papillion School Dist. No. 27*, 199 Neb. 410, 259 N.W.2d 281 (1977).

Board of education had power to provide for busing, but duty to do so was not imposed and mandamus not warranted. *Connot v. Monroe*, 193 Neb. 453, 227 N.W.2d 827 (1975).

This section confers power on school boards to establish such branches and grades as the board shall deem best adapted to the school. *State ex rel. Shineman v. Board of Education*, 152 Neb. 644, 42 N.W.2d 168 (1950).

Under former statute, there was no statutory provision authorizing the establishment of a high school in a district organized under article 3. *Griggs v. School District No. 76 of Wayne County*, 152 Neb. 282, 40 N.W.2d 859 (1950).

Right of parent to make reasonable selection from prescribed course of studies which shall be carried by his child in public schools is not limited to any particular school, nor any particular grade. *State ex rel. Kelley v. Ferguson*, 95 Neb. 63, 144 N.W. 1039 (1914).

Two systems of school administration exist, one vesting control in electors at school meeting and one making board of education the governing body. *Gaddis v. School Dist. of City of Lincoln*, 92 Neb. 701, 139 N.W. 280 (1912).

The matter of hiring a teacher for a school is committed to the judgment and discretion of the district board. *State ex rel. Lewellen v. Smith*, 49 Neb. 755, 69 N.W. 114 (1896).

**79-527 Repealed. Laws 2019, LB675, § 57.**

**79-527.01 Repealed. Laws 2017, LB512, § 41.**

**79-528 Reports; filing requirements; contents.**

(1)(a) On or before July 20 in all school districts, the superintendent shall file with the State Department of Education a report showing the number of children from five through eighteen years of age belonging to the school district according to the census taken as provided in sections 79-524 and 79-578.

(b) The board of any district neglecting to take and report the enumeration shall be liable to the school district for all school money which such district may lose by such neglect.

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

(3) On or before November 1 the superintendent of each school district shall submit to the Commissioner of Education a report described as the annual financial report showing (i) the amount of money received from all sources during the year and the amount of money expended by the school district during the year, (ii) the amount of bonded indebtedness, (iii) such other information as shall be necessary to fulfill the requirements of the Tax Equity and Educational Opportunities Support Act and section 79-1114, and (iv) such other information as the Commissioner of Education directs.

(4)(a) On or before October 15 of each year, the superintendent of each school district shall file with the commissioner the fall school district membership report, which report shall include the number of children from birth through twenty years of age enrolled in the district on October 1 of a given school year. The report shall enumerate (i) students by grade level, (ii) school district levies and total assessed valuation for the current fiscal year, (iii)

students enrolled in the district as option students, resident students enrolled in another district as option students, students enrolled in the district as open enrollment students, and resident students enrolled in another district as open enrollment students, and (iv) such other information as the Commissioner of Education directs.

(b) On or before October 15 of each year prior to 2017, each learning community coordinating council shall issue to the department a report which enumerates the learning community levies pursuant to subdivision (2)(b) of section 77-3442 and total assessed valuation for the current fiscal year.

(c) When any school district fails to submit its fall membership report by November 1, the commissioner shall, after notice to the district and an opportunity to be heard, direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the report is received by the department. In addition, the commissioner shall direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county treasurer of receipt of such report. The county treasurer shall withhold such money.

**Source:** Laws 1881, c. 78, subdivision IV, § 16, p. 350; Laws 1885, c. 79, § 1, p. 323; Laws 1889, c. 78, § 12, p. 547; R.S.1913, § 6779; C.S.1922, § 6320; C.S.1929, § 79-417; R.S.1943, § 79-419; Laws 1949, c. 256, § 90, p. 723; Laws 1959, c. 391, § 1, p. 1346; Laws 1969, c. 706, § 4, p. 2710; Laws 1977, LB 487, § 1; Laws 1978, LB 874, § 1; Laws 1979, LB 187, § 230; Laws 1985, LB 662, § 32; Referendum 1986, No. 400; Laws 1989, LB 487, § 3; Laws 1990, LB 1090, § 6; Laws 1990, LB 1059, § 36; Laws 1991, LB 511, § 35; Laws 1992, LB 245, § 40; Laws 1992, LB 1001, § 16; Laws 1994, LB 858, § 6; Laws 1994, LB 1310, § 3; R.S.1943, (1994), § 79-451; Laws 1996, LB 900, § 281; Laws 1997, LB 269, § 59; Laws 1997, LB 806, § 27; Laws 1998, Spec. Sess., LB 1, § 13; Laws 1999, LB 272, § 73; Laws 1999, LB 813, § 11; Laws 2001, LB 797, § 13; Laws 2003, LB 67, § 6; Laws 2003, LB 394, § 6; Laws 2006, LB 1024, § 52; Laws 2007, LB641, § 9; Laws 2009, LB549, § 20; Laws 2010, LB1070, § 6; Laws 2016, LB1067, § 28; Laws 2018, LB377, § 36; Laws 2018, LB1081, § 6.

**Cross References**

**Tax Equity and Educational Opportunities Support Act**, see section 79-1001.

**79-529 Failure to file annual financial report; use of other reports.**

(1) When the superintendent of a school district fails to file the annual financial report on or before the date required by subsection (3) of section 79-528, the State Department of Education shall use the annual financial report from the immediately preceding fiscal year for purposes of the Tax Equity and Educational Opportunities Support Act.

(2) For purposes of the final calculation of state aid pursuant to section 79-1065, the annual financial report for the most recently available complete data year shall be used.

**Source:** Laws 2013, LB410, § 22; Laws 2018, LB1081, § 7.

**Cross References**

**Tax Equity and Educational Opportunities Support Act**, see section 79-1001.

**79-530 Involvement of parents, guardians, and educational decisionmakers; term, defined; legislative findings.**

(1) For purposes of sections 79-530 to 79-533.03, educational decisionmaker means a person designated or ordered by a court to make educational decisions on behalf of a child.

(2) The Legislature finds and declares:

(a) That involvement of parents, guardians, and educational decisionmakers is a key factor in the education of children;

(b) That such individuals need to be informed of the educational practices affecting their children; and

(c) That public schools should foster and facilitate access by such individuals to information about and involvement in educational practices affecting their children.

(3) It is the intent of the Legislature, through the enactment of sections 79-531 to 79-533.03, to strengthen the level of involvement and participation by parents, guardians, and educational decisionmakers in the public school system of the state.

**Source:** Laws 1994, LB 1161, § 1; R.S.1943, (1994), § 79-4,242; Laws 1996, LB 900, § 283; Laws 2024, LB71, § 1.  
Effective date July 19, 2024.

**79-531 Involvement of parents, guardians, and educational decisionmakers; public school district; adopt policy.**

(1) On or before July 1, 2025, each public school district in the state shall develop and adopt a policy stating how the district will involve parents, guardians, or educational decisionmakers in the education of their children and the rights of each parent, guardian, or educational decisionmaker to:

(a) Access testing information and curriculum; and

(b) Request that a child be excused from specific instruction or activities.

(2) The policy of each public school district relating to how the district will seek to involve parents in the schools and what rights parents have relating to access to schools that is in effect prior to July 19, 2024, shall remain in effect until a new policy is developed and adopted on or before July 1, 2025, pursuant to subsection (1) of this section.

**Source:** Laws 1994, LB 1161, § 2; R.S.1943, (1994), § 79-4,243; Laws 1996, LB 900, § 284; Laws 2024, LB71, § 2.  
Effective date July 19, 2024.

**79-532 Involvement of parents, guardians, and educational decisionmakers; policy; contents.**

(1) The policy required by section 79-531 shall include, but need not be limited to, the following:

(a) How the school district will provide access to parents, guardians, or educational decisionmakers concerning textbooks; tests; activities information; digital materials; websites or applications used for learning; training materials for teachers, administrators, and staff; procedures for the review and approval of training materials, learning materials, and activities; and other curriculum materials used in the school district;

(b) How the school district will accommodate requests by parents, guardians, or educational decisionmakers to attend and monitor courses, assemblies, counseling sessions, and other instructional activities;

(c) Under what circumstances parents, guardians, or educational decisionmakers may ask that their children be excused from testing, classroom instruction, learning materials, activities, guest speaker events, and other school experiences the parents, guardians, or educational decisionmakers may find objectionable;

(d) How the school district will provide access to records of students;

(e) What the school district's testing policy will be; and

(f) How the school district participates in surveys of students and the right of parents, guardians, or educational decisionmakers to remove their children from such surveys.

(2) Nothing in this section shall be construed to require disclosure of information in violation of the federal Family Educational Rights and Privacy Act of 1974, as amended, 20 U.S.C. 1232g, or any federal regulations and applicable guidelines adopted in accordance with such act, as such act, regulations, and guidelines existed on January 1, 2024.

**Source:** Laws 1994, LB 1161, § 3; R.S.1943, (1994), § 79-4,244; Laws 1996, LB 900, § 285; Laws 2024, LB71, § 3.  
Effective date July 19, 2024.

**79-533 Involvement of parents, guardians, and educational decisionmakers; policy; hearing; review.**

The policy required by section 79-531 shall be developed with input from parents, guardians, and educational decisionmakers and shall be the subject of a public hearing before the school board or board of education of the school district before adoption by the board. The policy shall be reviewed annually and either altered and adopted as altered or reaffirmed by the board following a public hearing. Any public hearing under this section shall include a reasonable opportunity for public comments.

**Source:** Laws 1994, LB 1161, § 4; R.S.1943, (1994), § 79-4,245; Laws 1996, LB 900, § 286; Laws 2024, LB71, § 4.  
Effective date July 19, 2024.

**79-533.01 Involvement of parents, guardians, and educational decisionmakers; policy; accessibility.**

By August 1, 2025, each school district shall make the policy required by section 79-531 accessible on the school district's public website. The policy shall be accessible by a prominently displayed link on such website. If the policy is altered, the new version of the policy shall be made accessible within a reasonable time thereafter.

**Source:** Laws 2024, LB71, § 5.  
Effective date July 19, 2024.

**79-533.02 Involvement of parents, guardians, and educational decisionmakers; learning materials; availability.**

To the extent practicable, each public school district shall make a reasonable effort to make any learning materials, including original materials, available for inspection by a parent, guardian, or educational decisionmaker upon request.

**Source:** Laws 2024, LB71, § 6.  
Effective date July 19, 2024.

**79-533.03 Involvement of parents, guardians, and educational decisionmakers; noncompliance of school district; remedial action.**

If the Commissioner of Education determines that any school district has intentionally refused, in a material manner, to comply with sections 79-530 to 79-533.02, the commissioner shall notify the school district of the noncompliance and allow the school district a reasonable time to comply. If the commissioner determines, after such time has elapsed, that the school district is not in compliance and has not made a good-faith attempt to comply, the commissioner shall take appropriate remedial action within the commissioner's authority, up to and including qualifying such noncompliance as a violation of the rules and regulations for the accreditation of schools.

**Source:** Laws 2024, LB71, § 7.  
Effective date July 19, 2024.

**79-534 Class I, II, or III school district; board of education.**

All Class I, II, or III school districts shall be under the direction and control of the boards of education elected pursuant to section 32-543.

**Source:** Laws 1881, c. 78, subdivision XIV, § 2, p. 378; Laws 1899, c. 62, § 6, p. 292; Laws 1901, c. 63, § 7, p. 439; R.S.1913, § 6949; C.S.1922, § 6583; C.S.1929, § 79-2502; R.S.1943, § 79-2502; Laws 1949, c. 256, § 233, p. 768; Laws 1988, LB 802, § 21; Laws 1990, LB 1090, § 16; Laws 1994, LB 76, § 600; R.S.1943, (1994), § 79-802; Laws 1996, LB 900, § 287; Laws 2000, LB 1243, § 3; Laws 2024, LB1329, § 41.  
Effective date July 19, 2024.

**Cross References**

**For qualifications of members of board of education,** see section 79-543.  
**Vacancies,** see section 79-545.

**79-535 Class V school districts; control; powers.**

All Class V school districts shall be under the direction and control of the school board or board of education authorized by section 79-552. The school board or board of education may make expenditures for supplies, equipment, travel, meals, and lodging for school programs and activities, including extra-curricular and interscholastic activities, appropriate for the benefit, government, and health of pupils enrolled in the school district.

**Source:** Laws 1891, c. 45, § 2, p. 317; Laws 1899, c. 62, § 7, p. 292; Laws 1901, c. 63, § 8, p. 440; R.S.1913, § 7008; C.S.1922, § 6639; C.S.1929, § 79-2702; R.S.1943, § 79-2702; Laws 1949, c. 256, § 249, p. 775; Laws 1990, LB 1090, § 17; R.S.1943, (1994), § 79-1001.01; Laws 1996, LB 900, § 288; Laws 2000, LB 1243, § 4; Laws 2006, LB 1024, § 53; Laws 2014, LB967, § 6.

**79-536 Summer school; children in school system; unsatisfactory progress; summer school sessions; curricula.**

(1) Summer school means educational opportunities that, except as otherwise provided in this section, are undertaken on a voluntary basis by students who will be entering any of grades one through twelve in the next school year and are offered during the period of time between two consecutive school years.

(2) Summer school may be offered by any school district.

(3) The board of education of any school district may require children between and including the ages of six and fifteen years, regularly enrolled within the system and deemed by the school administration to be making unsatisfactory progress, to attend summer school for up to one-half of a regular school day if in the opinion of the administration they would benefit from the experience. Chief emphasis in such summer classes shall be on reading, language arts, and arithmetic and those areas of personality development especially in need of development. Teachers shall be encouraged to design new and imaginative techniques and curricula not usually used during the regular school year which in the opinion of such teachers will offer new incentives towards learning, with special emphasis on those techniques that seek to develop the students' personalities in a wholesome manner, especially developing pride, self-confidence, and self-control. Teachers of such classes shall not be assigned more than fifteen students, or more than twenty-five students if assisted full time by an aide or paraprofessional. Such students shall be graded at the end of the course upon their relative degree of striving to improve their skills, attitudes, and personalities.

**Source:** Laws 1969, c. 699, § 1, p. 2698; R.S.1943, (1994), § 79-1001.02; Laws 1996, LB 900, § 289; Laws 2006, LB 1024, § 54; Laws 2011, LB235, § 3.

**79-537 Class V school district; school board; school census; duty to take.**

The school board of a Class V school district shall cause to be taken an enumeration of all persons each year from birth through twenty years of age residing in the school district. It shall include such other information as is required by sections 79-524, 79-528, and 79-578, except that the information required by sections 79-524 and 79-578 as to children under five years of age may be limited to the number of children by age level and shall not include the names of all the taxpayers in the district. The board may, at its option, establish a permanent and continuing census or enumeration of school children.

**Source:** Laws 1891, c. 45, § 16, p. 322; R.S.1913, § 7022; C.S.1922, § 6653; C.S.1929, § 79-2716; R.S.1943, § 79-2717; Laws 1945, c. 213, § 1, p. 626; Laws 1949, c. 256, § 263, p. 779; Laws 1957, c. 354, § 1, p. 1201; Laws 1990, LB 1090, § 19; R.S.1943, (1994), § 79-1006; Laws 1996, LB 900, § 290; Laws 1999, LB 272, § 74.

**79-538 Student identification cards; requirements.**

Beginning with the 2022-23 school year, each school board shall require that the telephone number for a national suicide prevention hotline, a local suicide prevention hotline, or a crisis text line is printed on each new student identification card issued to a student enrolled in a middle school grade or a high school grade, as defined by such school board, in a school under the authority

of such school board. Nothing in this section shall be construed to require the issuance of student identification cards to students in any school.

**Source:** Laws 2021, LB528, § 68.

**79-539 School board; board of education; official policy respecting personnel files and student records; rules and regulations; adopt; publish; restrictions.**

The school board or board of education of each school district shall adopt and publish an official policy respecting personnel files and student records, which policy shall not conflict in any manner with the rules and regulations of the State Records Administrator adopted pursuant to the Records Management Act.

**Source:** Laws 1973, LB 370, § 3; R.S.1943, (1994), § 79-4,158; Laws 1996, LB 900, § 292.

**Cross References**

Records Management Act, see section 84-1220.

(c) SCHOOL BOARD ELECTIONS AND MEMBERSHIP

**79-540 Repealed. Laws 2018, LB377, § 87.**

**79-541 Repealed. Laws 2018, LB377, § 87.**

**79-542 Repealed. Laws 2018, LB377, § 87.**

**79-543 School board member; qualifications.**

No person shall file for office, be nominated or elected, or serve as a member of a school board in any class of school district unless he or she is a legal voter in such district.

**Source:** Laws 1971, LB 420, § 1; R.S.1943, (1987), § 79-439.01; Laws 1994, LB 76, § 595; R.S.1943, (1994), § 79-443.01; Laws 1996, LB 900, § 296; Laws 1997, LB 345, § 21.

**Cross References**

Election and terms of office, see sections 32-541 to 32-546.

Learning community coordinating council members, election, terms, and vacancies, see section 32-546.01.

**79-544 School board members; contract to teach prohibited.**

No member of a school board shall be engaged in a contract to teach pursuant to sections 79-817 to 79-821 with the school district which he or she serves as a board member.

**Source:** Laws 1881, c. 78, subdivision III, § 10, p. 345; Laws 1883, c. 72, § 5, p. 291; R.S.1913, § 6761; C.S.1922, § 6302; C.S.1929, § 79-310; R.S.1943, § 79-310; Laws 1949, c. 256, § 105, p. 727; Laws 1971, LB 214, § 1; R.S.1943, (1994), § 79-466; Laws 1996, LB 900, § 297; Laws 1999, LB 272, § 75; Laws 2001, LB 242, § 24; Laws 2009, LB163, § 1.

**79-545 District officers; vacancy.**



Vacancies in each school district office shall occur as set forth in section 32-570 and be filled according to such section.

**Source:** Laws 1881, c. 78, subdivision V, § 10, p. 354; R.S.1913, § 6790; C.S.1922, § 6331; C.S.1929, § 79-510; R.S.1943, § 79-510; Laws 1949, c. 256, § 101, p. 726; Laws 1951, c. 276, § 5, p. 930; Laws 1953, c. 291, § 4, p. 990; R.S.1943, (1987), § 79-462; Laws 1994, LB 76, § 596; R.S.1943, (1994), § 79-467.01; Laws 1996, LB 900, § 298.

**79-546 School board, board of education, or other governing board; reimbursement for expenses.**

Except as provided in section 79-1217, all members of a school board, board of education, or other governing board created pursuant to Chapter 79 shall not receive a per diem. Each such board may provide or reimburse members for expenses incurred while carrying out their duties. Mileage expenses shall be computed at the rate provided in section 81-1176. Sections 81-1174, 81-1175, and 81-1177 shall serve as guidelines for such boards when determining allowable expenses and reimbursement for such expenses.

**Source:** Laws 1992, LB 1001, § 13; Laws 1993, LB 239, § 2; R.S.1943, (1994), § 79-4,241; Laws 1996, LB 900, § 299; Laws 2020, LB381, § 88.

**Cross References**

Per diem for members of learning community coordinating council, see section 32-546.01.

**79-547 Class I, II, or III school district; school board; board of education; members; number.**

(1) Except as otherwise provided in section 79-550, the school board or board of education of a Class I, II, or III school district shall consist of six members.

(2) In addition to the members specified in subsection (1) of this section, such school boards or boards of education may include one or more student members selected pursuant to section 79-559.

**Source:** Laws 1969, c. 257, § 37, p. 951; Laws 1982, LB 440, § 2; R.S.1943, (1994), § 79-516.04; Laws 1996, LB 900, § 300; Laws 2014, LB946, § 40; Laws 2018, LB377, § 37; Laws 2024, LB1329, § 42.  
Effective date July 19, 2024.

**79-548 Repealed. Laws 2018, LB377, § 87.**

**79-549 School board; Class I, II, or III school district; members; caucus or election; procedure.**

(1) The school board of any Class I, II, or III school district that is a member of a learning community may place before the legal voters of the school district the issue of whether to begin to have a caucus for nominations by adopting a resolution to place the issue before the legal voters and certifying the issue to the election commissioner or county clerk prior to September 1 for placement on the ballot at the next statewide general election. The legal voters of the school district may also have the issue placed on the ballot at the statewide general election by circulating a petition and gathering the signatures of the

legal voters residing within the school district at least equal to seven percent of the number of persons registered to vote in the school district at the last statewide primary election. The petitions shall be filed with the election commissioner or county clerk for signature verification on or before August 15 prior to a statewide general election. If the election commissioner or county clerk determines that the appropriate number of legal voters signed the petition, he or she shall place the issue on the ballot for the next statewide general election. The issue shall not be placed on the ballot again within four years after voting on the issue at a statewide general election.

(2) Any Class I, II, or III school district that nominated school board members by caucus pursuant to this section as it existed immediately before July 14, 2006, shall continue such procedure until the legal voters of the district vote not to continue to have a caucus for nominations pursuant to subsection (3) of this section. A caucus shall be held pursuant to subsection (5) of this section not less than seventy days prior to the holding of the election to nominate two or more candidates for each vacancy to be voted upon at the election to be held in conjunction with the statewide primary election pursuant to subsection (1) of section 32-543. No candidate nominated shall have his or her name placed upon the ballot for the general election unless, not more than ten days after his or her nomination, he or she files with the secretary of the school board a written statement accepting the nomination. The secretary of the school board shall certify the names of the candidates to the election commissioner or county clerk who shall prepare the official ballot listing the names as certified and without any area designation. All legal voters residing within the school district shall be permitted to vote at such election.

(3) The school board may place before the legal voters of the school district the issue of whether to continue to have a caucus for nominations by adopting a resolution to place the issue before the legal voters and certifying the issue to the election commissioner or county clerk prior to September 1 for placement on the ballot at the next statewide general election. The legal voters of the school district may also have the issue placed on the ballot at the statewide general election by circulating a petition and gathering the signatures of the legal voters residing within the school district at least equal to seven percent of the number of persons registered to vote in the school district at the last statewide primary election. The petitions shall be filed with the election commissioner or county clerk for signature verification on or before August 15 prior to a statewide general election. If the election commissioner or county clerk determines that the appropriate number of legal voters signed the petition, he or she shall place the issue on the ballot for the next statewide general election. The issue shall not be placed on the ballot again within four years after voting on the issue at a statewide general election.

(4) If the legal voters vote not to continue to have a caucus, the school board shall determine the number of members to be nominated and elected as provided in subsection (2) of section 32-543. The terms of the members in office at the time of the vote shall be extended to the first Thursday after the first Tuesday in January after the expiration of their terms. At the first general election following the vote, a number of members receiving the greatest number of votes shall be elected for a term of four years and a number of members receiving the next greatest number of votes shall be elected for a term of two years so that approximately one-half of the school board members are elected every two years.

(5) A school district which uses a caucus for nominations shall develop rules and procedures for conducting the caucus which will ensure:

(a) Publication of the rules and procedures by multiple sources if necessary so that every resident of the school district has access to information on the process for placing a name in nomination and voting at the caucus;

(b) Facilities for voting at the caucus which comply with the federal Americans with Disabilities Act of 1990 and which will accommodate a reasonably anticipated number of legal voters;

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

(d) Equal access to all legal voters of the school district, including the presence of an interpreter at the caucus at the expense of the school district and ballots for the blind and visually impaired to provide access to the process by all legal voters of the school district;

(e) Adequate time and opportunity for legal voters of the school district to exercise their right to vote; and

(f) Notification of nomination to the candidates and to the secretary of the school board.

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

**Source:** Laws 1953, c. 303, § 2, p. 1017; Laws 1969, c. 257, § 43, p. 955; Laws 1972, LB 661, § 85; Laws 1974, LB 435, § 1; Laws 1978, LB 632, § 9; Laws 1982, LB 440, § 3; Laws 1993, LB 348, § 25; Laws 1994, LB 76, § 601; R.S.1943, (1994), § 79-803.03; Laws 1996, LB 900, § 302; Laws 1997, LB 345, § 23; Laws 1997, LB 346, § 6; Laws 1997, LB 764, § 111; Laws 2006, LB 1024, § 55; Laws 2014, LB946, § 41; Laws 2024, LB1329, § 43.  
Effective date July 19, 2024.

**79-550 Class I, II, or III school district elections; change number of board members; resolution; contents; change manner of election.**

(1) The school board of a Class I, II, or III school district may, by resolution adopted in an odd-numbered year, provide for a change in the number of members on the school board to a minimum of five members and a maximum of nine members to be effective at the beginning of the term of office for school board members elected at the next statewide general election. The school board shall include in the resolution:

(a) A statement of the change in number of members to be added to or eliminated from the school board;

(b) A statement that the change does not take effect until the beginning of the term of office for school board members elected at the next statewide general election;

(c) If the members are not nominated or elected by district or ward in the school district:

(i) If the change in number adds members to the school board, a statement of the number of members to be elected at the next statewide general election, including the members whose terms are expiring and the additional members,

and the number of such members to be elected to four-year terms and the number of such members to be elected to two-year terms so that approximately one-half of the total number of members are elected at each statewide general election. The members receiving the highest number of votes shall be elected to four-year terms, and the members receiving the next highest number of votes shall be elected to two-year terms; and

(ii) If the change in number decreases the number of members on the school board, a statement of the number of members to be elected at the next statewide general election, if any, and at the subsequent statewide general election, if necessary, and the number of such members to be elected at such elections to four-year terms and the number of such members to be elected at such elections to two-year terms so that approximately one-half of the total number of members are elected at each statewide general election. The members receiving the highest number of votes shall be elected to four-year terms, and the members receiving the next highest number of votes shall be elected to two-year terms; and

(d) If the members are nominated or elected by district or ward in the school district:

(i) The changes to the boundaries of districts or wards;

(ii) A statement that the changes to the boundaries are effective for purposes of nominating or electing, as applicable, members to the school board beginning with the next statewide primary and general elections but that the changes in boundaries are not effective for purposes of representation until the beginning of the term of office for school board members elected at the next statewide general election;

(iii) A statement of which districts or wards, as changed, are on the ballot at the next statewide primary or general election, as applicable, and whether the members elected from such districts or wards are being elected for four-year terms or two-year terms;

(iv) A statement specifying the newly established districts which each member will represent for the remainder of his or her term, if necessary;

(v) If the change in number adds members to the school board, a statement of the number of members to be elected at the next statewide general election, including the members whose terms are expiring and the additional members, and the districts or wards of such members to be elected to four-year terms and the districts or wards of such members to be elected to two-year terms so that approximately one-half of the total number of members are elected at each statewide general election; and

(vi) If the change in number decreases the number of members on the school board, a statement of the number of members to be elected at the next statewide general election, if any, and at the subsequent statewide general election, if necessary, and the districts or wards of such members to be elected at such elections to four-year terms and the districts or wards of such members to be elected at such elections to two-year terms so that approximately one-half of the total number of members are elected at each statewide general election.

(2) If the members of the school board of a Class I, II, or III school district are nominated and elected by district or ward, the board may by resolution provide for the nomination of the members by district or ward and the election of the members at large. If the members are nominated by district or ward and

elected at large, the board may by resolution provide for the nomination and election of the members by district or ward.

(3) Any Class I, II, or III school district which has a nine-member school board on January 1, 2015, may continue to have a nine-member school board without complying with the requirements of this section.

**Source:** Laws 1974, LB 592, § 8; Laws 1981, LB 303, § 4; Laws 1994, LB 76, § 602; R.S.1943, (1994), § 79-803.11; Laws 1996, LB 900, § 303; Laws 1997, LB 595, § 5; Laws 2014, LB946, § 42; Laws 2018, LB377, § 38; Laws 2024, LB1329, § 44.  
Effective date July 19, 2024.

**79-551 Class IV school district; board of education; members; election; student member.**

The board of education of a Class IV school district shall consist of seven members and also may include a nonvoting student member or members selected pursuant to section 79-559. Voting members shall be elected as provided in section 32-544. Voting members of the board shall begin the duties of their office on the third Monday of the month in which they are elected.

**Source:** Laws 1978, LB 457, § 1; Laws 1979, LB 305, § 1; Laws 1981, LB 303, § 5; Laws 1982, LB 688, § 1; Laws 1982, LB 440, § 4; Laws 1985, LB 244, § 2; Laws 1994, LB 76, § 603; R.S.1943, (1994), § 79-902.01; Laws 1996, LB 900, § 304.

**Cross References**

For qualifications of members of board of education, see section 79-543.  
Vacancies, see section 79-545.

**79-552 Class V school district; board of education; members; election by district; procedure; qualifications.**

The board of education of a Class V school district shall consist of nine members. One member shall be elected from each district pursuant to section 32-545. Each elected member shall be a resident of the district for at least six months prior to the election. Each candidate for election to and each member of the board of education shall be a taxpayer in and a resident of the district of such school district as designated pursuant to section 32-552.

**Source:** Laws 1891, c. 45, § 5, p. 318; Laws 1909, c. 131, § 1, p. 476; R.S.1913, § 7011; Laws 1915, c. 125, § 1, p. 285; C.S.1922, § 6642; C.S.1929, § 79-2705; Laws 1939, c. 106, § 1, p. 470; C.S.Supp.,1941, § 79-2705; R.S.1943, § 79-2705; Laws 1949, c. 256, § 251, p. 775; Laws 1969, c. 259, § 68, p. 1000; Laws 1975, LB 423, § 1; Laws 1981, LB 446, § 31; Laws 1982, LB 440, § 5; Laws 1994, LB 76, § 604; R.S.1943, (1994), § 79-1003; Laws 1996, LB 900, § 305; Laws 2002, LB 935, § 17; Laws 2013, LB125, § 6; Laws 2020, LB1055, § 20.

**Cross References**

For qualifications of members of board of education, see section 79-543.  
Vacancies, see section 79-545.

**79-553 Repealed. Laws 2018, LB377, § 87.**

## (d) SCHOOL BOARD MEETINGS AND PROCEDURES

**79-554 Class I, II, or III school district; school board; quorum; meetings; open to public.**

In all meetings of a school board of a Class I, II, or III school district, a majority of the members shall constitute a quorum for the transaction of business. Regular meetings shall be held on or before the third Monday of every month. All meetings of the board shall be subject to the Open Meetings Act. Special meetings may be called by the president or any two members, but all members shall have notice of the time and place of meeting. If a school district is participating in an approved unified system as provided in section 79-4,108, regular meetings of such district's school board shall be held at least twice during the school year.

**Source:** Laws 1881, c. 78, subdivision V, § 1, p. 352; Laws 1885, c. 79, § 1, p. 324; R.S.1913, § 6781; C.S.1922, § 6322; C.S.1929, § 79-501; R.S.1943, § 79-501; Laws 1949, c. 256, § 78, p. 719; Laws 1972, LB 1268, § 1; Laws 1973, LB 429, § 1; Laws 1980, LB 735, § 1; Laws 1988, LB 812, § 2; Laws 1990, LB 1109, § 1; Laws 1991, LB 689, § 1; Laws 1991, LB 836, § 32; R.S.1943, (1994), § 79-439; Laws 1996, LB 900, § 307; Laws 2003, LB 67, § 7; Laws 2004, LB 821, § 25; Laws 2018, LB377, § 39; Laws 2024, LB1329, § 45.

Effective date July 19, 2024.

## Cross References

**Open Meetings Act**, see section 84-1407.

Action of majority, without notice to other member, is not binding. *State ex rel. Hunter v. Peters*, 4 Neb. 254 (1876).

**79-555 Class I, II, or III school district; board of education; meetings; when held.**

The regular meetings of the board of education of a Class I, II, or III school district shall be held as provided in section 79-554. Special meetings may be held as circumstances may demand, and all meetings of the board shall be open to the public.

**Source:** Laws 1881, c. 78, subdivision XIV, § 6, p. 379; R.S.1913, § 6953; C.S.1922, § 6587; C.S.1929, § 79-2506; R.S.1943, § 79-2508; Laws 1947, c. 291, § 1, p. 903; Laws 1949, c. 256, § 238, p. 770; Laws 1961, c. 402, § 2, p. 1218; Laws 1965, c. 525, § 1, p. 1656; Laws 1972, LB 1268, § 2; Laws 1982, LB 892, § 1; R.S.1943, (1994), § 79-805; Laws 1996, LB 900, § 308; Laws 2024, LB1329, § 46.

Effective date July 19, 2024.

**79-556 Repealed. Laws 2018, LB377, § 87.**

**79-557 Repealed. Laws 2018, LB377, § 87.**

**79-558 Repealed. Laws 2018, LB377, § 87.**

**79-559 Class I, II, III, or IV school district; school board or board of education; student member; term; qualifications.**

(1) The school board or board of education of any Class I, II, III, or IV school district may include at least one nonvoting member who is a public high school student from the district. If the board elects to include such a nonvoting student member, the student member shall serve for a term of one year, beginning on September 1, and shall be the student body or student council president, the senior class representative, or a representative elected from and by the entire student body, as designated by the voting members of the board.

(2) Any nonvoting student member of the board has the privilege of attending all open meetings of the board but shall be excluded from executive sessions.

**Source:** Laws 1982, LB 440, § 1; R.S.1943, (1994), § 79-547.02; Laws 1996, LB 900, § 312; Laws 2013, LB125, § 7; Laws 2018, LB377, § 40; Laws 2024, LB1329, § 47.  
Effective date July 19, 2024.

**79-560 Class IV school district; board of education; meetings; open to public.**

The board of education of a Class IV school district shall hold one or more regular meetings each month, the time of which shall be fixed by the bylaws adopted by such board. Special meetings may be held as circumstances may demand. All meetings of the board shall be subject to the Open Meetings Act.

**Source:** Laws 1917, c. 225, § 6, p. 551; Laws 1921, c. 60, § 1, p. 243; C.S.1922, § 6615; C.S.1929, § 79-2606; R.S.1943, § 79-2606; Laws 1949, c. 256, § 210, p. 760; R.R.S.1943, § 79-523; Laws 1971, LB 450, § 2; Laws 1972, LB 1268, § 3; Laws 1990, LB 1109, § 2; R.S.1943, (1994), § 79-906; Laws 1996, LB 900, § 313; Laws 2004, LB 821, § 26.

**Cross References**

Open Meetings Act, see section 84-1407.

**79-561 Class V school district; board of education; meetings; open to public.**

The regular meetings of the board of education of a Class V school district shall be held one or more times each month. Special meetings may be held as circumstances may demand at the call of the president of the board or on petition of a majority of the members of the board. All meetings of the board shall be subject to the Open Meetings Act.

**Source:** Laws 1891, c. 45, § 6, p. 319; R.S.1913, § 7012; C.S.1922, § 6643; C.S.1929, § 79-2706; R.S.1943, § 79-2706; Laws 1949, c. 256, § 252, p. 776; Laws 1972, LB 1268, § 4; Laws 1988, LB 812, § 3; Laws 1990, LB 1109, § 3; R.S.1943, (1994), § 79-1003.01; Laws 1996, LB 900, § 314; Laws 2004, LB 821, § 27.

**Cross References**

Open Meetings Act, see section 84-1407.

**79-562 Class V school district; board of education; meetings; quorum; attendance, how compelled; absence; effect.**

A majority of all the members of a board of education of a Class V school district shall constitute a quorum, but a less number in attendance at any regular meeting shall have and a quorum at any special meeting may have power to compel the attendance of absent members in such manner and under

such penalties as each board prescribes. The absence of any member from four consecutive regular meetings of the board, unless on account of sickness or by consent of the board, shall vacate his or her position on the board. Such facts shall be passed upon by the board of education and spread upon its records.

**Source:** Laws 1891, c. 45, § 14, p. 322; R.S.1913, § 7013; C.S.1922, § 6644; C.S.1929, § 79-2707; R.S.1943, § 79-2707; Laws 1949, c. 256, § 253, p. 776; R.S.1943, (1994), § 79-1003.02; Laws 1996, LB 900, § 315.

**79-563 Repealed. Laws 2018, LB377, § 87.**

(e) SCHOOL BOARD OFFICERS

**79-564 Class I, II, or III school district; school board; officers; elect.**

At the first meeting of each school board or board of education elected in a Class I, II, or III school district, and annually thereafter, the board shall elect from among its members a president and vice president. The board shall also elect a secretary who need not be a member of the board. If the secretary is a member of the board, an assistant secretary may be named and his or her duties and compensation set by the board.

**Source:** Laws 1969, c. 257, § 39, p. 953; Laws 1973, LB 557, § 9; R.S.1943, (1994), § 79-516.06; Laws 1996, LB 900, § 317; Laws 2018, LB377, § 41; Laws 2024, LB1329, § 48.  
Effective date July 19, 2024.

**79-565 Repealed. Laws 2018, LB377, § 87.**

**79-566 Class IV school district; board of education; officers; employees, selection.**

The board of education of a Class IV school district shall at a regular meeting elect from outside its own members a superintendent, an associate superintendent of instruction, an associate superintendent of business affairs, a school district treasurer, and the number of employees the board of education may deem necessary for the proper conduct of the affairs of the school district at such salaries as the board of education may determine. The board may contract with them for terms not to exceed three years. The election of all officers of the board of education and all elections for filling vacancies on the board of education shall be by ballot. No person shall be declared elected unless he or she receives the vote of a majority of all the members of the board of education.

**Source:** Laws 1917, c. 225, § 8, p. 552; C.S.1922, § 6617; Laws 1929, c. 94, § 4, p. 354; C.S.1929, § 79-2608; Laws 1937, c. 182, § 5, p. 717; C.S.Supp.,1941, § 79-2608; R.S.1943, § 79-2608; Laws 1949, c. 269, § 1, p. 883; Laws 1949, c. 256, § 212, p. 760; Laws 1969, c. 257, § 40, p. 953; R.S.1943, (1971), § 79-525; Laws 1971, LB 450, § 4; Laws 1986, LB 84, § 1; R.S.1943, (1994), § 79-908; Laws 1996, LB 900, § 319.

**79-567 Class V school district; board of education; officers and employees; selection; terms.**



The members of the board of education of a Class V school district, at their regular meeting in January each year, shall elect a president and vice president from their own members, who shall serve for terms of one year or until their successors are elected and qualified. The members of the board of education may also select from outside their own members one superintendent of public schools, one secretary, one treasurer, and such other officers as the board may deem necessary for the administration of the affairs of the school district, at such salary as the board may deem just, and in their discretion they may enter into contracts with such officers for terms of not to exceed three years. The board shall have the power to elect its president and vice president and to select its officers and employees in accordance with rules adopted by the board.

**Source:** Laws 1891, c. 45, § 8, p. 319; Laws 1905, c. 142, § 1, p. 579; R.S.1913, § 7016; C.S.1922, § 6647; Laws 1929, c. 94, § 5, p. 354; C.S.1929, § 79-2710; Laws 1937, c. 182, § 6, p. 718; C.S.Supp.,1941, § 79-2710; R.S.1943, § 79-2710; Laws 1949, c. 271, § 2, p. 888; Laws 1949, c. 256, § 256, p. 777; Laws 1990, LB 1090, § 18; Laws 1996, LB 604, § 8; R.S.1943, (1994), § 79-1004; Laws 1996, LB 900, § 320.

**79-568 Repealed. Laws 2018, LB377, § 87.**

**79-569 Class I, II, III, or IV school district; president; powers and duties.**

The president of the school board of a Class I, II, III, or IV school district shall: (1) Preside at all meetings of the district; (2) countersign all orders upon the treasury for money to be disbursed by the district and all warrants of the secretary on the county treasurer for money raised for district purposes or apportioned to the district by the county treasurer; (3) administer the oath to the secretary and treasurer of the district when such an oath is required by law in the transaction of the business of the district; and (4) perform such other duties as may be required by law of the president of the board. He or she is entitled to vote on any issue that may come before any meeting.

**Source:** Laws 1881, c. 78, subdivision IV, § 1, p. 345; Laws 1901, c. 63, § 5, p. 439; Laws 1909, c. 120, § 1, p. 460; R.S.1913, § 6763; C.S.1922, § 6304; C.S.1929, § 79-401; R.S.1943, § 79-401; Laws 1949, c. 256, § 91, p. 723; R.S.1943, (1994), § 79-452; Laws 1996, LB 900, § 322; Laws 1997, LB 345, § 25; Laws 1999, LB 272, § 76; Laws 2009, LB549, § 21; Laws 2018, LB377, § 42; Laws 2024, LB1329, § 49.  
Effective date July 19, 2024.

**Cross References**

**For form of oath,** see sections 11-101 and 11-101.01.

It is duty of president to countersign all warrants. *Fulk v. School District No. 8 of Lancaster County*, 155 Neb. 630, 53 N.W.2d 56 (1952).

School district warrant not countersigned by the moderator is not a valid instrument. *Pollock v. Consolidated School District No. 65 of Perkins County*, 138 Neb. 315, 293 N.W. 108 (1940).

**79-570 Class I, II, III, or IV school district; president; meetings; maintenance of order.**

If at any district meeting of a Class I, II, III, or IV school district any person conducts himself or herself in a disorderly manner and persists in such conduct after notice by the president or person presiding, the president or person

presiding may order such person to withdraw from the meeting and, if the person refuses, may order any person or persons to take such person into custody until the meeting is adjourned.

**Source:** Laws 1881, c. 78, subdivision IV, § 2, p. 345; R.S.1913, § 6764; C.S.1922, § 6305; C.S.1929, § 79-402; R.S.1943, § 79-402; Laws 1949, c. 256, § 92, p. 724; Laws 1988, LB 1030, § 51; R.S.1943, (1994), § 79-453; Laws 1996, LB 900, § 323; Laws 2018, LB377, § 43; Laws 2024, LB1329, § 50.  
Effective date July 19, 2024.

**79-571 Class III or IV school district; meetings; disorderly conduct; penalty.**

Any person who refuses to withdraw from such meeting on being so ordered as provided in section 79-570 or who willfully disturbs such meeting shall be guilty of a Class V misdemeanor.

**Source:** Laws 1881, c. 78, subdivision IV, § 3, p. 346; R.S.1913, § 6765; C.S.1922, § 6306; C.S.1929, § 79-403; R.S.1943, § 79-403; Laws 1949, c. 256, § 93, p. 724; Laws 1977, LB 39, § 249; R.S.1943, (1994), § 79-454; Laws 1996, LB 900, § 324.

**79-572 Class I, II, III, or IV school district; president; actions for or against district; appearance required.**

The president of a Class I, II, III, or IV school district shall appear for and on behalf of the district in all suits brought by or against the district.

**Source:** Laws 1881, c. 78, subdivision IV, § 7, p. 347; R.S.1913, § 6769; C.S.1922, § 6310; C.S.1929, § 79-407; R.S.1943, § 79-407; Laws 1949, c. 256, § 94, p. 724; R.S.1943, (1994), § 79-455; Laws 1996, LB 900, § 325; Laws 2018, LB377, § 44; Laws 2024, LB1329, § 51.  
Effective date July 19, 2024.

Members of school board act in a representative capacity and not as individuals. Greer v. Chelewski, 162 Neb. 450, 76 N.W.2d 438 (1956).

General duties of officers, when district is involved in litigation, require them to look after interest of district. Bishop v. Fuller, 78 Neb. 259, 110 N.W. 715 (1907).

Under former law, treasurer must bring action in name of district. Donnelly v. Duras, 11 Neb. 283, 9 N.W. 45 (1881).

Under former law, when action was not brought by treasurer, petition should state cause. Bowen v. School Dist. No. 3 of Phelps County, 10 Neb. 265, 4 N.W. 981 (1880).

**79-573 Class V school district; school board; president; duties.**

The president of the school board of a Class V school district shall preside at all meetings of the board, appoint all committees when appointment is not otherwise provided for, and sign all warrants ordered by the board to be drawn upon the treasurer of the school district for school money.

**Source:** Laws 1891, c. 45, § 9, p. 320; R.S.1913, § 7017; C.S.1922, § 6648; C.S.1929, § 79-2711; R.S.1943, § 79-2712; Laws 1949, c. 256, § 257, p. 777; R.S.1943, (1994), § 79-1004.01; Laws 1996, LB 900, § 326; Laws 2001, LB 797, § 15.

**79-574 Class V school district; school elections; notice; duty of president to give.**

For at least ten days prior to an election in a Class V school district, the president of the board of education shall publish his or her proclamation to the legal voters of the school district in at least one daily newspaper of general

circulation in the school district, setting forth the time when and place or places where such election will be held and a full and complete statement of the officers, bond proposition, or question of expenditure to be voted on at the election.

**Source:** Laws 1891, c. 45, § 29(1), p. 328; R.S.1913, § 7036; C.S.1922, § 6667; C.S.1929, § 79-2730; R.S.1943, § 79-2734; Laws 1949, c. 256, § 269, p. 782; R.S.1943, (1994), § 79-1007.05; Laws 1996, LB 900, § 327; Laws 1997, LB 345, § 26.

#### **79-575 Secretary; disbursements; how made.**

The secretary of a school district shall draw and sign all orders upon the treasurer for all money to be disbursed by the district and all warrants upon the county treasurer for money raised for district purposes or apportioned to the district by the county treasurer and shall present the same to the president to be countersigned. No warrant, check, or other instrument drawn upon bank depository funds of the district shall be issued until so countersigned. No warrant, check, or other instrument drawn upon bank depository funds of the district shall be countersigned by the president until the amount for which it is drawn is written upon its face. Facsimile signatures of board members may be used, and a person or persons delegated by the board may sign and validate all warrants, checks, and other instruments drawn upon bank depository funds of the district.

**Source:** Laws 1881, c. 78, subdivision IV, § 16, p. 350; Laws 1883, c. 72, § 8, p. 292; R.S.1913, § 6778; C.S.1922, § 6319; C.S.1929, § 79-416; R.S.1943, § 79-418; Laws 1949, c. 256, § 89, p. 722; Laws 1955, c. 315, § 6, p. 976; Laws 1980, LB 734, § 1; R.S. 1943, (1994), § 79-450; Laws 1996, LB 900, § 328; Laws 1999, LB 272, § 77; Laws 2009, LB392, § 9.

District warrants do not possess qualities of negotiable instruments. *State ex rel. Brandeis & Sons v. Melcher*, 87 Neb. 359, 127 N.W. 241 (1910).

Mandamus will lie to compel moderator to sign orders. *Montgomery v. State ex rel. Thompson*, 35 Neb. 655, 53 N.W. 568 (1892).

Endorsee takes subject to equities. *School Dist. No. 2 of Dixon County v. Stough*, 4 Neb. 357 (1876).

Demand on treasurer should be accompanied by proper order. *State ex rel. McMillan v. Hodge*, 4 Neb. 265 (1876).

#### **79-576 Class I, II, III, or IV school district; secretary; duty as clerk of board.**

The secretary of a Class I, II, III, or IV school district shall be clerk of the school board and of all meetings when present, but if he or she is not present, the school board may appoint a clerk for the time being, who shall certify the proceedings to the secretary to be recorded by him or her.

**Source:** Laws 1881, c. 78, subdivision IV, § 9, p. 348; R.S.1913, § 6771; C.S.1922, § 6312; C.S.1929, § 79-409; R.S.1943, § 79-409; Laws 1949, c. 256, § 95, p. 724; Laws 1996, LB 604, § 6; R.S.1943, (1994), § 79-456; Laws 1996, LB 900, § 329; Laws 1997, LB 345, § 27; Laws 2016, LB1066, § 5; Laws 2018, LB377, § 45; Laws 2024, LB1329, § 52.  
Effective date July 19, 2024.

Secretary is the clerk of the district board. *George v. School Dist. No. 24 of Red Willow County*, 157 Neb. 791, 61 N.W.2d 401 (1953).

Under former law, action of school board on expulsion of pupil was not impaired notwithstanding director kept no formal record of meeting. *Smith v. Johnson*, 105 Neb. 61, 178 N.W. 835 (1920).

**79-577 Class I, II, III, or IV school district; secretary; books, records, and reports; duty to preserve.**

The secretary of a Class I, II, III, or IV school district shall (1) record all proceedings of the district in a book furnished by the district to be kept for that purpose, (2) preserve copies of all reports, and (3) safely preserve and keep all books and papers belonging to the office.

**Source:** Laws 1881, c. 78, subdivision IV, § 10, p. 348; R.S.1913, § 6772; C.S.1922, § 6313; C.S.1929, § 79-410; R.S.1943, § 79-410; Laws 1949, c. 256, § 96, p. 724; R.S.1943, (1994), § 79-457; Laws 1996, LB 900, § 330; Laws 1999, LB 272, § 78; Laws 2018, LB377, § 46; Laws 2024, LB1329, § 53.  
Effective date July 19, 2024.

Secretary is custodian of records. *George v. School Dist. No. 24 of Red Willow County*, 157 Neb. 791, 61 N.W.2d 401 (1953). Record is best evidence of what district has done. *Burlington & M. R.R. Co. v. Lancaster County*, 4 Neb. 293 (1876).

**79-578 Class I, II, III, or IV school district; secretary; school census; duty to take; time allowed.**

The secretary of a Class I, II, III, or IV school district shall take, or cause to be taken by some person appointed for the purpose by a majority vote of the school board, the census of the school district and then make or cause to be made a list in writing of the names of all the children belonging to such district, from birth through twenty years of age, together with the names of all the taxpayers in the district. A copy of the list, verified by oath of the person taking such census or by affidavit appended to or endorsed on the list, setting forth that it is a correct list of the names of all children belonging in the district from birth through twenty years of age and that it reflects such information as of June 30, shall be maintained as provided in section 79-524.

**Source:** Laws 1881, c. 78, subdivision IV, § 12, p. 349; Laws 1889, c. 78, § 10, p. 546; R.S.1913, § 6774; C.S.1922, § 6315; C.S.1929, § 79-412; Laws 1931, c. 139, § 1, p. 385; C.S.Supp.,1941, § 79-412; R.S.1943, § 79-412; Laws 1949, c. 256, § 97, p. 724; Laws 1955, c. 315, § 7, p. 977; Laws 1957, c. 346, § 1, p. 1189; Laws 1967, c. 534, § 1, p. 1769; Laws 1976, LB 587, § 1; Laws 1978, LB 874, § 2; Laws 1990, LB 1090, § 7; Laws 1991, LB 511, § 36; Laws 1992, LB 245, § 41; R.S.1943, (1994), § 79-458; Laws 1996, LB 900, § 331; Laws 1999, LB 272, § 79; Laws 2018, LB377, § 47; Laws 2024, LB1329, § 54.  
Effective date July 19, 2024.

Courts will take judicial notice of census. *Kokes v. State ex rel. Koupal*, 55 Neb. 691, 76 N.W. 467 (1898). Record is best evidence on question of enumeration. *State ex rel. Vale v. School Dist. of City of Superior*, 55 Neb. 317, 75 N.W. 855 (1898).

**79-579 Class I, II, III, or IV school district; district officers; disputes over orders; county attorney; duty to investigate; mandamus.**

Whenever a secretary or president of the school board of a Class I, II, III, or IV school district refuses to sign orders on the treasurer or the treasurer thinks best to refuse the payment of orders drawn upon him or her, the difficulty shall be referred for adjudication to the county attorney, who shall proceed at once to investigate the matter. If the county attorney finds that the officer complained of refuses through contumacy or for insufficient reasons, the county

attorney, on behalf of the district, shall apply to the proper court for a writ of mandamus to compel the officer to perform his or her duty.

**Source:** Laws 1881, c. 78, subdivision III, § 11, p. 345; R.S.1913, § 6762; C.S.1922, § 6303; C.S.1929, § 79-311; R.S.1943, § 79-311; Laws 1949, c. 256, § 106, p. 727; R.S.1943, (1994), § 79-467; Laws 1996, LB 900, § 332; Laws 1999, LB 272, § 80; Laws 2018, LB377, § 48; Laws 2024, LB1329, § 55.  
Effective date July 19, 2024.

Section is valid. *Leonard v. State ex rel. Tressler*, 67 Neb. 635, 93 N.W. 988 (1903); *Montgomery v. State ex rel. Thompson*, 35 Neb. 655, 53 N.W. 568 (1892).

Superintendent's right to bring mandamus is not exclusive. *State ex rel. Cook v. Bloom*, 19 Neb. 562, 27 N.W. 638 (1886).

Mandamus lies to compel performance of duty as directed by electors. *Maher v. State ex rel. Allen & Jenkins*, 32 Neb. 354, 49 N.W. 436 (1891).

**79-580 Class I, II, or III school district; board of education; claims against; record of proceedings; secretary; duty to publish.**

The secretary of the school board or board of education of each Class I, II, or III school district shall, within ten days after any regular or special meeting of the board, publish one time in a legal newspaper published in or of general circulation in such district a list of the claims, arising on contract or tort, allowed at the meeting. The list shall set forth the name of the claimant and the amount and nature of the claim allowed, to consist of not more than ten words in stating the nature of each such claim. The secretary shall likewise cause to be published a concise summary of all other proceedings of such meetings. Publication of such claims or proceedings in a legal newspaper shall not be required unless the publication can be done at an expense not exceeding the rates provided by law for the publication of proceedings of county boards.

**Source:** Laws 1972, LB 1255, § 1; R.S.1943, (1994), § 79-552; Laws 1996, LB 900, § 333; Laws 2018, LB377, § 49; Laws 2024, LB1329, § 56.  
Effective date July 19, 2024.

Salaries of school district employees are not "claims" within the meaning of this section and are not required to be published individually. *State ex rel. Thompson v. Alderman*, 230 Neb. 335, 431 N.W.2d 625 (1988).

This section, requiring the publication of claims allowed by school boards of Class III school districts, does not require the

publication of the individual salaries of the employees of the district. Employees did not make any demand for payment of their salaries; no school board action was necessary; no board action was taken; and no publication was necessary. *State ex rel. Thompson v. Alderman*, 230 Neb. 335, 431 N.W.2d 625 (1988).

**79-581 Class I, II, or III school district; publication of claims and summary of proceedings; noncompliance by secretary; penalty.**

The secretary of any school board or board of education of a Class I, II, or III school district failing or neglecting to comply with the provisions of section 79-580 shall be guilty of a Class V misdemeanor. In the discretion of the court, the judgment of conviction may provide for the removal from office of such secretary for such failure or neglect.

**Source:** Laws 1947, c. 274, § 2, p. 879; R.S.Supp.,1947, § 79-604.02; Laws 1949, c. 256, § 198, p. 755; Laws 1977, LB 39, § 254; R.S.Supp.,1980, § 79-514; R.S.1943, (1994), § 79-703.01; Laws 1996, LB 900, § 334; Laws 1997, LB 347, § 17; Laws 2018, LB377, § 50; Laws 2024, LB1329, § 57.  
Effective date July 19, 2024.

**79-582 Class IV school district; secretary of the board of education; duties.**

The secretary of the board of education of a Class IV school district shall (1) be present at all meetings of the board of education, (2) keep an accurate journal of its proceedings, and (3) perform all other duties the board of education may require.

**Source:** Laws 1917, c. 225, § 11, p. 552; C.S.1922, § 6620; C.S.1929, § 79-2611; R.S.1943, § 79-2611; Laws 1949, c. 269, § 2, p. 884; Laws 1949, c. 256, § 213, p. 761; R.S.1943, (1971), § 79-526; Laws 1971, LB 450, § 5; Laws 1986, LB 84, § 2; R.S.1943, (1994), § 79-909; Laws 1996, LB 900, § 335.

**79-583 Class V school district; school board; secretary; oath; bond; duties.**

The secretary of the school board of a Class V school district shall be present at all meetings of the board, keep an accurate journal of the proceedings, take charge of its books and documents, countersign all warrants for school money drawn upon the treasurer of the school district by order of the board, and perform all other duties the board may require. Before entering into the discharge of his or her duties the secretary of the board shall give bond in the sum of not less than ten thousand dollars, with good and sufficient sureties, and shall take and subscribe an oath or affirmation before a proper officer that he or she will support the Constitution of Nebraska and faithfully perform the duties of his or her office.

**Source:** Laws 1891, c. 45, § 11, p. 320; R.S.1913, § 7019; C.S.1922, § 6650; C.S.1929, § 79-2713; R.S.1943, § 79-2714; Laws 1949, c. 256, § 259, p. 778; Laws 1951, c. 284, § 1, p. 950; R.S.1943, (1994), § 79-1004.03; Laws 1996, LB 900, § 336; Laws 2001, LB 797, § 16.

**79-584 Class V school district; board of education; disbursements; how made; accounts; audit.**

All accounts of a Class V school district shall be audited by the secretary of the board of education and approved by a committee to be named the committee on claims. No expenditures greater than one thousand dollars shall be voted by the board, except in accordance with the provisions of a written contract, and no money shall be appropriated out of the school fund except on a recorded affirmative vote of a majority of all the members of the board. All money belonging to the school district in the hands of the county treasurer shall be accounted for and disbursed directly to the board of education in accordance with section 23-1601.

**Source:** Laws 1891, c. 45, § 15, p. 322; Laws 1903, c. 97, § 1, p. 555; R.S.1913, § 7021; C.S.1922, § 6652; C.S.1929, § 79-2715; R.S. 1943, § 79-2716; Laws 1949, c. 271, § 3, p. 889; Laws 1949, c. 256, § 262, p. 779; Laws 1996, LB 604, § 10; R.S.1943, (1994), § 79-1005; Laws 1996, LB 900, § 337.

**79-585 Repealed. Laws 2018, LB377, § 87.****79-586 Class I, II, III, or IV school district; treasurer; bond or insurance; filing; failure to give; effect.**

The treasurer of each Class I, II, III, or IV school district shall, within ten days after his or her election, execute to the county and file with the secretary a bond or evidence of equivalent insurance coverage of not less than five hundred dollars in any instance and not more than double the amount of money, as nearly as can be ascertained, to come into his or her hands as treasurer at any one time, which bond shall be signed by either a personal surety or a surety company or companies of recognized responsibility as surety or sureties, to be approved by the president and secretary, conditioned for the faithful discharge of the duties of the office. The bond when approved or evidence of equivalent insurance coverage shall be filed by the secretary in the office of the county treasurer of the county in which the school district is situated. If the treasurer fails to execute such bond or provide evidence of such insurance coverage, the office shall be declared vacant by the school board or board of education and the board shall immediately appoint a treasurer who shall be subject to the same conditions and possess the same powers as if elected to that office. The treasurer shall have no power or authority to withdraw or disburse the money of the district prior to filing the bond or evidence of equivalent insurance coverage provided for in this section.

**Source:** Laws 1881, c. 78, subdivision IV, § 4, p. 346; Laws 1883, c. 72, § 6, p. 291; R.S.1913, § 6766; C.S.1922, § 6307; C.S.1929, § 79-404; R.S.1943, § 79-404; Laws 1949, c. 256, § 98, p. 725; Laws 1959, c. 392, § 1, p. 1348; Laws 1975, LB 103, § 2; R.S.1943, (1994), § 79-459; Laws 1996, LB 900, § 339; Laws 2005, LB 380, § 1; Laws 2018, LB377, § 51; Laws 2024, LB1329, § 58.

Effective date July 19, 2024.

Treasurer is required to give bond for faithful performance of duties. *Fulk v. School District No. 8 of Lancaster County*, 155 Neb. 630, 53 N.W.2d 56 (1952).

By this section, intent of Legislature to require bond of all school district treasurers is shown. *School District of Omaha v. Adams*, 151 Neb. 741, 39 N.W.2d 550 (1949).

School district treasurer, under his bond, is required to pay over to successor money in his hands. *Thurston County v. Chmelka*, 138 Neb. 696, 294 N.W. 857 (1940).

### **79-587 Class I, II, III, or IV school district; treasurer; district funds; receipt and disbursement.**

The treasurer of each Class I, II, III, or IV school district shall apply for and receive from the county treasurer all school money apportioned to or collected for the district by the county treasurer, upon order of the secretary countersigned by the president. The treasurer shall pay out all money received by him or her, on the order of the secretary countersigned by the president of such district.

**Source:** Laws 1881, c. 78, subdivision IV, § 5, p. 346; R.S.1913, § 6767; C.S.1922, § 6308; C.S.1929, § 79-405; R.S.1943, § 79-405; Laws 1949, c. 256, § 99, p. 725; R.S.1943, (1994), § 79-460; Laws 1996, LB 900, § 340; Laws 2018, LB377, § 52; Laws 2024, LB1329, § 59.

Effective date July 19, 2024.

It is function of treasurer to pay out funds on order of secretary countersigned by president. *Fulk v. School District No. 8 of Lancaster County*, 155 Neb. 630, 53 N.W.2d 56 (1952).

It is the duty of treasurer to pay over upon order all money received. *State ex rel. Sorenson v. Bank of Otoe*, 125 Neb. 414, 250 N.W. 547 (1933).

Bank receiving deposit of funds of school district treasurer, who is also active managing officer of bank, holds such funds as trustee. *Lincoln Nat. Bank & Trust Co. v. School District No. 79 of Boyd County*, 124 Neb. 538, 247 N.W. 433 (1933).

Mandamus lies to compel performance of duty by district treasurers. *Leonard v. State ex rel. Tressler*, 67 Neb. 635, 93 N.W. 988 (1903).

Bank receiving deposit by treasurer becomes trustee for district. *State v. Midland State Bank*, 52 Neb. 1, 71 N.W. 1011 (1897).

Warrant must be properly drawn and countersigned. *Montgomery v. State ex rel. Thompson*, 35 Neb. 655, 53 N.W. 568 (1892); *Donnelly v. Duras*, 11 Neb. 283, 9 N.W. 45 (1881).

District cannot release treasurer from liability for money lost or misapplied. *Ward v. School Dist. No. 15 of Colfax County*, 10 Neb. 293, 4 N.W. 1001 (1880).

**79-588 Class I, II, III, or IV school district; treasurer; records and reports required; delivery upon expiration of office.**

The treasurer of a Class I, II, III, or IV school district shall keep a record in which the treasurer shall enter all the money received and disbursed by him or her, specifying particularly (1) the source from which money has been received, (2) to what fund it belongs, and (3) the person or persons to whom and the object for which the same has been paid out. The treasurer shall present to the district, at each annual meeting, a report in writing containing a statement of all money received during the preceding year and of the disbursement made with the items of such disbursements and exhibit the vouchers therefor. At the close of the treasurer's term of office, he or she shall settle with the school board and shall hand over to his or her successor the records and all receipts, vouchers, orders, and papers coming into his or her hands as treasurer of the district, together with all money remaining in his or her hands as such treasurer.

**Source:** Laws 1881, c. 78, subdivision IV, § 6, p. 347; R.S.1913, § 6768; C.S.1922, § 6309; C.S.1929, § 79-406; R.S.1943, § 79-406; Laws 1949, c. 256, § 100, p. 726; R.S.1943, (1994), § 79-461; Laws 1996, LB 900, § 341; Laws 1999, LB 272, § 81; Laws 2018, LB377, § 53; Laws 2024, LB1329, § 60.  
Effective date July 19, 2024.

School district treasurer is bound to faithfully discharge duties of his office and to pay over to his successor the money in his hands which has not been otherwise legally disbursed.

*Thurston County v. Chmelka*, 138 Neb. 696, 294 N.W. 857 (1940).

**79-589 Board of education; Class I, II, or III school district outside of city or village or more than one-half of district within a city of metropolitan class; treasurer; bond or insurance; duties.**

In a Class I, II, or III school district which lies outside of the corporate limits of any city or village or of which more than one-half is geographically within a city of the metropolitan class, the board of education shall elect one of its members, other than the secretary, as treasurer of the school district and the provisions of section 79-590 shall not apply to the selection of a treasurer of such a district. The treasurer shall prepare and submit in writing a monthly report of the state of the finances of the district and pay school money only upon warrants signed by the president of the board or, in the president's absence, by the vice president, and countersigned by the secretary. The treasurer shall give a bond or evidence of equivalent insurance coverage payable to the school district in such sum as may be fixed by the board. Such bond shall be signed by one or more surety companies of recognized responsibility. The cost of such bond or insurance coverage shall be paid by the school district.

**Source:** Laws 1953, c. 303, § 4, p. 1017; Laws 1973, LB 408, § 1; R.S.1943, (1994), § 79-803.05; Laws 1996, LB 900, § 342; Laws 2005, LB 380, § 2; Laws 2024, LB1329, § 61.  
Effective date July 19, 2024.



**79-590 Class I, II, or III school district; board of education; treasurer; duties; bond or insurance; compensation.**

The board of education of a Class I, II, or III school district may employ a treasurer for such district who shall be paid a salary, to be fixed by the board, of not to exceed one thousand two hundred dollars per annum. If the board does not employ such a treasurer, the city treasurer or deputy city treasurer of the city which is within such district shall be ex officio treasurer of the school district. He or she shall attend all meetings of the board when required so to do, prepare and submit in writing a monthly report of the state of the district's finances, and pay school money only upon warrants signed by the president of the board or, in the president's absence, by the vice president, and countersigned by the secretary. If the city treasurer or his or her deputy acts as ex officio treasurer of the school district, he or she shall be paid for such services by the school district a sum to be fixed by the board. The treasurer of such district, or the city treasurer or deputy city treasurer acting as ex officio treasurer, shall give a bond or evidence of equivalent insurance coverage payable to the county in such sum as may be fixed by the board of education. Such bond shall be signed by one or more surety companies of recognized responsibility. The cost of such bond or insurance coverage shall be paid by the school district.

**Source:** Laws 1881, c. 78, subdivision XIV, § 13, p. 381; Laws 1883, c. 72, § 22, p. 299; Laws 1899, c. 59, § 4, p. 287; R.S.1913, § 6960; C.S.1922, § 6594; C.S.1929, § 79-2513; R.S.1943, § 79-2515; Laws 1949, c. 256, § 242, p. 771; Laws 1953, c. 305, § 1, p. 1020; Laws 1963, c. 488, § 1, p. 1559; R.S.1943, (1994), § 79-809; Laws 1996, LB 900, § 343; Laws 2005, LB 380, § 3; Laws 2024, LB1329, § 62.  
Effective date July 19, 2024.

**79-591 Class IV school district; treasurer; duties; reports; bond or insurance.**

The treasurer of a Class IV school district shall (1) attend all meetings of the board of education when required to do so by the board of education, (2) prepare and submit in writing a monthly report of the state of the finances of the district, (3) pay out school money only upon warrants signed by the president or vice president and countersigned by the associate superintendent of business affairs, and (4) give a bond or evidence of equivalent insurance coverage payable to the school district in a sum fixed by the board of education.

**Source:** Laws 1917, c. 225, § 13, p. 553; C.S.1922, § 6622; C.S.1929, § 79-2613; R.S.1943, § 79-2613; Laws 1949, c. 269, § 4, p. 885; Laws 1949, c. 256, § 215, p. 761; R.S.1943, (1971), § 79-528; Laws 1971, LB 450, § 7; Laws 1986, LB 84, § 4; R.S.1943, (1994), § 79-911; Laws 1996, LB 900, § 344; Laws 2005, LB 380, § 4.

**79-592 Class V school district; treasurer; bond or insurance; duties.**

The treasurer of a Class V school district shall receive all taxes of the school district from the county treasurer. The treasurer of the school district shall attend all meetings of the board of education of the Class V district when required to do so, shall prepare and submit in writing a monthly report of the state of the district's finances, and shall pay school money either upon a

warrant signed by the president, or in the president's absence by the vice president, and countersigned by the secretary or upon a check or other instrument drawn upon bank depository funds of the school district. The treasurer shall also perform such other duties as designated by the board of education. Before entering into the discharge of his or her duties and during the entire time he or she so serves, the treasurer shall give bond or evidence of equivalent insurance coverage payable to the board in such amount as may be required by the board, but in no event less than two hundred thousand dollars, conditioned for the faithful discharge of his or her duties as treasurer of the school district, for the safekeeping and proper disbursement of all funds and money of the school district received by the treasurer. Such bond shall be signed by one or more surety companies of recognized responsibility, to be approved by the board. The cost of the bond or insurance shall be paid by the school district. Such bond or insurance coverage may be enlarged at any time the board may deem an enlargement or additional bond or insurance coverage to be necessary.

**Source:** Laws 1891, c. 45, § 12, p. 321; Laws 1903, c. 96, § 1, p. 553; R.S.1913, § 7020; C.S.1922, § 6651; C.S.1929, § 79-2714; R.S. 1943, § 79-2715; Laws 1947, c. 297, § 1, p. 912; Laws 1949, c. 256, § 260, p. 778; Laws 1996, LB 604, § 9; R.S.1943, (1994), § 79-1004.04; Laws 1996, LB 900, § 345; Laws 2005, LB 380, § 5; Laws 2009, LB392, § 10.

The 1947 amendment to this section was operative prospectively only. *School District of Omaha v. Adams*, 151 Neb. 741, 39 N.W.2d 550 (1949).

**79-593 Class V school district; board of education; vice president; duties.**

The vice president of the board of education of a Class V school district shall perform all the duties of the president in case of the president's absence or disability.

**Source:** Laws 1891, c. 45, § 10, p. 320; R.S.1913, § 7018; C.S.1922, § 6649; C.S.1929, § 79-2712; R.S.1943, § 79-2713; Laws 1949, c. 256, § 258, p. 778; R.S.1943, (1994), § 79-1004.02; Laws 1996, LB 900, § 346.

**79-594 Class I, II, III, or IV school district; superintendent; appointment; salary; term.**

The school board in a Class I, II, III, or IV school district may also elect at any regular meeting one superintendent of public instruction with such salary as the board deems best and may enter into contract with him or her at its discretion, for a term not to exceed three years.

**Source:** Laws 1881, c. 78, § 8, p. 379; Laws 1883, c. 72, § 20, p. 298; Laws 1899, c. 66, § 1, p. 295; Laws 1903, c. 93, § 1, p. 546; R.S.1913, § 6955; C.S.1922, § 6589; Laws 1929, c. 94, § 3, p. 353; C.S.1929, § 79-2508; Laws 1937, c. 182, § 4, p. 716; C.S.Supp.,1941, § 79-2508; R.S.1943, § 79-2519; Laws 1949, c. 256, § 206, p. 758; R.S.1943, (1994), § 79-519; Laws 1996, LB 900, § 347; Laws 1997, LB 345, § 28; Laws 2018, LB377, § 54; Laws 2024, LB1329, § 63.  
Effective date July 19, 2024.

## Cross References

Class V school district, appointment of superintendent, see section 79-567.

**79-595 Class IV school district; associate superintendent of business affairs; duties.**

The associate superintendent of business affairs of a Class IV school district shall (1) take charge of the books and documents of the board of education, (2) countersign all warrants for school money, (3) apply for and receive school funds from the county treasurer or other persons to whom such funds are payable by law and deposit the funds with the treasurer of the board, and (4) perform all such other duties as the board may require.

**Source:** Laws 1996, LB 900, § 348.

**79-596 Class IV school district; associate superintendent of business affairs; bond.**

Before entering upon his or her duties, the associate superintendent of business affairs of a Class IV school district shall give a bond payable to the school district in such sum as the board of education may fix, but not less than five thousand dollars, and shall take and subscribe the usual oath of office. The board of education may require any other officer or employee to give a bond in such an amount as it may deem necessary. The cost of all bonds shall be paid by the school district and shall be approved by the board of education.

**Source:** Laws 1917, c. 225, § 12, p. 553; C.S.1922, § 6621; C.S.1929, § 79-2612; R.S.1943, § 79-2612; Laws 1949, c. 269, § 3, p. 884; Laws 1949, c. 256, § 214, p. 761; R.S.1943, (1971), § 79-527; Laws 1971, LB 450, § 6; Laws 1986, LB 84, § 3; R.S.1943, (1994), § 79-910; Laws 1996, LB 900, § 349.

**79-597 Class IV school district; accounts; audit; disbursements; how made.**

All accounts of a Class IV school district shall be audited by the associate superintendent of business affairs, approved by the chairperson of the board of education, and countersigned by one other member of the board of education. No expenditure greater than one thousand dollars shall be voted by the board of education except in accordance with the provisions of a written contract. No money shall be appropriated out of school funds except on a recorded affirmative vote of a majority of all the members of the board of education.

**Source:** Laws 1917, c. 225, § 15, p. 553; Laws 1921, c. 60, § 2, p. 243; C.S.1922, § 6624; C.S.1929, § 79-2615; R.S.1943, § 79-2615; Laws 1949, c. 269, § 5, p. 885; Laws 1949, c. 256, § 216, p. 761; R.S.1943, (1971), § 79-529; Laws 1971, LB 450, § 8; Laws 1986, LB 84, § 5; R.S.1943, (1994), § 79-912; Laws 1996, LB 900, § 350.

(f) PROVIDING EDUCATION OUTSIDE THE DISTRICT

**79-598 Pupils; instruction in another district; contracts authorized; contents; cost per pupil; determination; transportation; attendance reports; noncompliance penalties; dissolution of district.**

(1) The school board of any public school district in this state, when authorized by a majority of the votes cast at any annual or special meeting,

shall (a) contract with the board of any neighboring public school district or districts for the instruction of all or any part of the pupils residing in the first named district in the school or schools maintained by the neighboring public school district or districts for a period of time not to exceed two years and (b) make provision for the transportation of such pupils to the school or schools of the neighboring public school district or districts.

(2) The school board of any public school district may also, when petitioned to do so by at least two-thirds of the parents residing in the district having children of school age who will attend school under the contract plan, (a) contract with the board of any neighboring public school district or districts for the instruction of all or any part of the pupils residing in the first named district in the school or schools maintained by the neighboring public school district or districts for a period of time not to exceed two years and (b) make provision for the transportation of such pupils to the school or schools of the neighboring public school district or districts.

(3) The contract price for instruction referred to in subsections (1) and (2) of this section shall be the cost per pupil for the immediately preceding school year or the current year, whichever appears more practical as determined by the board of the district which accepts the pupils for instruction. The cost per pupil shall be determined by dividing the sum of the operational cost and debt service expense of the accepting district, except retirement of debt principal, plus three percent of the insurable or present value of the school plant and equipment of the accepting district, by the average daily membership of pupils in the accepting district. Payment of the contract price shall be made in equal installments at the beginning of the first and second semesters.

(4) All the contracts referred to in subsections (1) and (2) of this section shall be in writing, and copies of all such contracts shall be filed in the office of the superintendent of the school district on or before August 15 of each year. School districts thus providing instruction for their children in neighboring districts shall be considered as maintaining a school as required by law. The teacher of the school providing the instruction shall keep a separate record of the attendance of all pupils from the first named district and make a separate report to the secretary of that district. The board of every sending district contracting under this section shall enter into contracts with school districts of the choice of the parents of the children to be educated under the contract plan. Any school district failing to comply with this section shall not be paid any funds from the state apportionment of school funds while such violation continues.

(5) The State Committee for the Reorganization of School Districts may dissolve any district (a) failing to comply with this section, (b) in which the votes cast at an annual or special election on the question of contracting with a neighboring district are evenly divided, or (c) in which the governing body of the district is evenly divided in its vote on the question of contracting pursuant to subsection (2) of this section. The state committee shall dissolve and attach to a neighboring district or districts any school district which, for two consecutive years, contracts for the instruction of its pupils, except that when such dissolution will create extreme hardships on the pupils or the district affected, the State Board of Education may, on application by the school board of the district, waive the requirements of this subsection. The dissolution of any school

district pursuant to this section shall be effected in the manner prescribed in section 79-498.

**Source:** Laws 1897, c. 64, § 1, p. 311; R.S.1913, § 6944; C.S.1922, § 6526; C.S.1929, § 79-2103; R.S.1943, § 79-2112; Laws 1945, c. 212, § 1, p. 625; Laws 1947, c. 287, § 1, p. 896; Laws 1949, c. 256, § 124, p. 733; Laws 1951, c. 280, § 1, p. 944; Laws 1953, c. 291, § 5, p. 990; Laws 1953, c. 298, § 2, p. 1006; Laws 1955, c. 313, § 1, p. 966; Laws 1955, c. 314, § 1, p. 968; Laws 1955, c. 315, § 8, p. 977; Laws 1959, c. 393, § 1, p. 1349; Laws 1959, c. 386, § 2, p. 1337; Laws 1961, c. 401, § 1, p. 1215; Laws 1965, c. 521, § 1, p. 1647; Laws 1967, c. 535, § 1, p. 1770; Laws 1967, c. 536, § 1, p. 1773; Laws 1969, c. 709, § 3, p. 2724; Laws 1971, LB 292, § 10; Laws 1989, LB 30, § 4; Laws 1989, LB 487, § 4; R.S.1943, (1994), § 79-486; Laws 1996, LB 900, § 351; Laws 1999, LB 272, § 82; Laws 2003, LB 67, § 9; Laws 2009, LB549, § 22; Laws 2018, LB377, § 55.

#### Cross References

**Contract for instruction relative to certain mergers and dissolutions**, see section 79-470.

**Depopulated districts**, provisions for contracting, see section 79-499.

**Expense of opposing dissolution order under this section**, see section 79-471.

Board of education had power to provide for busing, but duty to do so was not imposed and mandamus not warranted. *Connot v. Monroe*, 193 Neb. 453, 227 N.W.2d 827 (1975).

School district cannot be dissolved hereunder until full fifth year instruction as contracted for has elapsed. *Nelson v. Robertson*, 187 Neb. 192, 188 N.W.2d 720 (1971).

Funds received and expended by the high school districts from state and federal aid are, until the Legislature otherwise decrees, part of the per pupil cost. *Werth v. Buffalo County Board of Equalization*, 187 Neb. 119, 188 N.W.2d 442 (1971).

This section permits computation of per pupil cost and is intended to avoid a flat rate which might be more or less than compensatory for nonresident student tuition. *Mann v. Wayne County Board of Equalization*, 186 Neb. 752, 186 N.W.2d 729 (1971).

Where school has not yet been held in district for more than five years, district may be dissolved. *Board of Education v. Winne*, 177 Neb. 431, 129 N.W.2d 255 (1964).

The waiver of the requirements of subsection (4) of this section is required to be made by the State Board of Education. *Bierman v. Campbell*, 175 Neb. 877, 124 N.W.2d 918 (1963).

Requirement of favorable vote is a condition precedent to establishment of contract. *Farrell v. School Dist. No. 54 of Lincoln County*, 164 Neb. 853, 84 N.W.2d 126 (1957).

Contracts for instruction between districts must be in writing. *George v. School Dist. No. 24 of Red Willow County*, 157 Neb. 791, 61 N.W.2d 401 (1953).

Construed in connection with Blanket Mill Tax Levy Act. *Peterson v. Hancock*, 155 Neb. 801, 54 N.W.2d 85 (1952).

Authorization by a majority of the votes cast at an annual or special election is necessary to require school board to make provision for transportation. *Bender v. Palmer*, 154 Neb. 350, 48 N.W.2d 65 (1951).

### 79-599 Pupil; attend school in adjoining state; application; contents.

In counties which are contiguous to the boundary line of this state, the parent or legal guardian of any pupil authorized or required to attend any of grades kindergarten through twelve may apply for authority for such pupil to attend school in a district in an adjoining state. Such application shall be made on or before August 15 of each year to the school board or board of education of the school district in which the parent or guardian resides and shall specify the district in the adjoining state to which the parent or guardian seeks to send the pupil. The application also shall state whether any of the following conditions exists: (1) The pupil lives nearer an attendance center in the proposed receiving district than in the district of residence; (2) natural barriers such as rivers cause transportation difficulties within the district of residence; (3) road conditions from the pupil's home to the school in the proposed receiving district are better than to the school in the district of residence; (4) travel time would be less to the school in the proposed receiving district; or (5) educational advantages for the pupil exist in the proposed receiving district.

**Source:** Laws 1971, LB 469, § 1; R.S.1943, (1994), § 79-4,106.01; Laws 1996, LB 900, § 352.

**79-5,100 Pupil; attend school in adjoining state; application; procedure; authorization, when.**

Upon receipt of an application pursuant to section 79-599, the school board or board of education shall inquire of the proposed receiving district if it is willing to receive the pupil. If the proposed receiving district is willing to do so, the school which the pupil would attend is accredited, and the conditions of section 79-5,101 have been met, the board may authorize such attendance.

**Source:** Laws 1971, LB 469, § 2; R.S.1943, (1994), § 79-4,106.02; Laws 1996, LB 900, § 353.

**79-5,101 Pupil; attend school in adjoining state; reciprocity required.**

No application for attendance of a pupil in a school of another state pursuant to sections 79-599 to 79-5,103 shall be approved unless such state has in force an act which the State Board of Education determines to be similar to such sections.

**Source:** Laws 1971, LB 469, § 3; R.S.1943, (1994), § 79-4,106.03; Laws 1996, LB 900, § 354.

**79-5,102 Pupil; attend school in adjoining state; tuition; payment by sending district.**

When any school board or board of education authorizes attendance at a school in an adjoining state pursuant to sections 79-599 to 79-5,103, the sending district shall pay to the receiving district tuition for each pupil for each day the pupil is actually enrolled in the receiving district up to one hundred eighty-five days per year. The daily rate of tuition shall be equal to the amount of the actual per pupil per day operating expense of the receiving district for the preceding school year.

**Source:** Laws 1971, LB 469, § 4; R.S.1943, (1994), § 79-4,106.04; Laws 1996, LB 900, § 355.

**79-5,103 Pupil; attend school in adjoining state; records; costs; determination.**

The State Board of Education shall have access to the records of the receiving district in an adjoining state in order to verify the amount charged by the receiving district, and the state board of education of an adjoining state sending students to a district in this state shall have similar access to the records of a receiving district in this state. When necessary, the Commissioner of Education shall confer with the head of the department of education of an adjoining state to establish uniform methods of determining costs pursuant to sections 79-599 to 79-5,103. The Commissioner of Education also may prescribe forms to be used for applications pursuant to section 79-599 and shall assist school boards and boards of education in carrying out the provisions of sections 79-599 to 79-5,103.

**Source:** Laws 1971, LB 469, § 5; R.S.1943, (1994), § 79-4,106.05; Laws 1996, LB 900, § 356.

**79-5,104 Class I, II, or III school district; tuition of pupil attending school outside of district; payment, when.**

The school board or board of education of any Class I, II, or III school district may, in its discretion, pay the regular school tuition for any pupil residing in such school district and attending a school outside such school district when, in the opinion of the board, the best interests of the pupil or the school district may so require.

**Source:** Laws 1955, c. 317, § 1, p. 982; R.S.1943, (1994), § 79-516.01; Laws 1996, LB 900, § 357; Laws 2018, LB377, § 56; Laws 2024, LB1329, § 64.  
Effective date July 19, 2024.

**79-5,105 Class I, II, III, IV, or V school district; children residing on federal property; contracts with federal government for instruction; supervisory services of districts; maintenance and operation of schools.**

If the board of education of a Class I, II, III, IV, or V school district finds it desirable that children of school age or any grade or grades thereof residing on federal property situated in the vicinity of a city of the metropolitan class be given instruction outside the boundaries of such district of the character provided by law for children within the district, under the direction and control of the board of education and that the same is not detrimental to the interests of the school district, the board of education may enter into a contract with the federal government or any agency thereof to provide supervisory services in the construction of school facilities and to maintain and operate schools for the children of residents of such federal installations.

**Source:** Laws 1957, c. 350, § 1, p. 1194; R.S.1943, (1994), § 79-544; Laws 1996, LB 900, § 358; Laws 2024, LB1329, § 65.  
Effective date July 19, 2024.

**79-5,106 Class I, II, III, IV, or V school district; children residing on federal property; contracts with federal government for instruction; effect of existing available facilities.**

The provisions of giving instructions outside a Class I, II, III, IV, or V school district as provided in section 79-5,105 shall not apply where existing facilities are now available.

**Source:** Laws 1957, c. 350, § 2, p. 1195; R.S.1943, (1994), § 79-545; Laws 1996, LB 900, § 359; Laws 2024, LB1329, § 66.  
Effective date July 19, 2024.

**79-5,107 Repealed. Laws 2018, LB377, § 87.**

**79-5,108 Repealed. Laws 2018, LB377, § 87.**

(g) PROHIBITED ACTS

**79-5,109 Debt collection agency; interest, fees, monetary penalties; prohibited, when.**

(1) For purposes of this section, debt collection agency means any person or entity that collects or attempts to collect, directly or indirectly, debts due or asserted to be owed or due to another. Debt collection agency does not include the Department of Revenue or any programs administered by the department or a school, school district, school board, or board of education.

(2) No school board or board of education of a school district shall:

(a) Use a debt collection agency to collect or attempt to collect, directly or indirectly, debts due or assessed to be owed for outstanding debts on a school lunch or breakfast account of a student at such school district; or

(b) Assess or collect any interest, fees, or other monetary penalties for outstanding debts on a school lunch or breakfast account of a student at such school district.

**Source:** Laws 2024, LB1329, § 91.

Effective date July 19, 2024.

**ARTICLE 6**

**SCHOOL TRANSPORTATION**

Section

- 79-601. Pupils; public or private schools; transportation; buses; conditions; purchase; use; State Department of Education; duties.
- 79-602. Pupil transportation vehicles; inspections; correction of defects.
- 79-603. Pupil transportation vehicles; safety features; violations; penalty.
- 79-604. Pupils; transportation; buses; routes, posting with signs.
- 79-605. Nonresident pupils; transportation; schedule of fees; applicability of section.
- 79-606. Sale of school bus; alteration required; violation; penalty.
- 79-607. Pupil transportation vehicles; State Board of Education; rules and regulations; violations; penalty.
- 79-608. Students; transportation; buses; operator; requirements; violation; penalty.
- 79-609. Pupils; transportation; buses; capacity; instruction in safe riding practice; emergency evacuation drills; occupant protection system; operator wear.
- 79-610. Pupils; transportation; driver; liability policy; conditions.
- 79-611. Students; transportation; transportation allowance; when authorized; limitations; board; authorize service.
- 79-612. Pupils; transportation allowance; claims; contents; limitation upon action for recovery.
- 79-613. Pupils; transportation allowance; temporary residence; attendance at another school; how computed.

**79-601 Pupils; public or private schools; transportation; buses; conditions; purchase; use; State Department of Education; duties.**

The school board or board of education of any public school district may, when authorized by a majority vote of the members of such board, purchase out of the general fund of the district a school bus or buses for the purpose of providing transportation facilities for school children to and from school and to and from all school-related activities. The school board or board of education of any public school district providing such transportation facilities for children attending public schools shall also provide transportation without cost for children who attend nonprofit private schools which are approved for continued legal operation under rules and regulations established by the State Board of Education pursuant to subdivision (5)(c) of section 79-318. Such transportation shall be provided for only such children attending nonprofit private schools who reside in a district which provides transportation to public school students, and such transportation shall extend only from some point on the regular public school route nearest or most easily accessible to their homes to and from a point on the regular public school route nearest or most easily accessible to the school or schools attended by such children. The governing body of such nonprofit private school, on a form to be provided by the State Department of Education, shall certify to the public school district the names, addresses, and



days of school attendance of children transported and such other information useful in operating the transportation facility as may be required by rules established by the State Board of Education. Transportation shall be provided for nonprofit private school children only at times when transportation is being provided for public school children.

The school board or board of education of any public school district may enter into a contract with a municipality or county pursuant to section 13-1208.

**Source:** Laws 1947, c. 301, § 2, p. 918; R.S.Supp.,1947, § 79-2113.02; Laws 1949, c. 256, § 125, p. 734; Laws 1965, c. 522, § 1, p. 1650; Laws 1975, LB 522, § 1; Laws 1981, LB 85, § 3; R.S.1943, (1994), § 79-487; Laws 1996, LB 900, § 362.

The provisions of this section which allow the transportation of nonprofit private school students on public school buses do not violate Neb. Const. Art. VII, § 11; Neb. Const. Art. III, § 18; U.S. Const. amend. XIV, § 1; or U.S. Const. amend. I. State ex rel. Bouc v. School Dist. of City of Lincoln, 211 Neb. 731, 320 N.W.2d 472 (1982).

This section imposes no duty on school boards to provide actual bus service to students. Warren v. Papillion School Dist. No. 27, 199 Neb. 410, 259 N.W.2d 281 (1977).

Board of education had power to provide for busing, but duty to do so was not imposed and mandamus not warranted. Connot v. Monroe, 193 Neb. 453, 227 N.W.2d 827 (1975).

### **79-602 Pupil transportation vehicles; inspections; correction of defects.**

All school boards, the governing authorities of any nonpublic schools in this state, and all independent contractors who or which provide student transportation services for such boards and governing authorities and for military installations shall cause all pupil transportation vehicles used for the transportation of students to be inspected before school opens in the fall and each eighty days during that part of the year when school is in session by a motor vehicle mechanic appointed by the board or governing authority having jurisdiction over such students, except that any pupil transportation vehicle that has been inspected under rules and regulations of the Public Service Commission shall be exempted from the provisions of this section. The mechanic shall thoroughly inspect every vehicle used for the transportation of students as to brakes, lights, windshield wipers, window glass, tires, doors, heaters, defrosting equipment, steering gear, exhaust system, and the mechanical condition of every part of such pupil transportation vehicle to ensure compliance with the minimum allowable safety criteria established pursuant to section 79-607 and subdivision (12) of section 79-318. Within five days after such inspection, the mechanic shall make a report of his or her inspection in writing on regular forms provided by the State Department of Education which shall show if the vehicle met the minimum allowable safety criteria for use. Any item not meeting such criteria shall be brought into compliance prior to the vehicle being used to transport students. One copy of the mechanic's report shall be filed with the board or governing authority and, if the school contracts with an independent contractor to provide transportation services, one copy with the independent contractor. The chief administrative officer of each school district shall annually certify, by a written verification statement, to the State Department of Education that the inspections required pursuant to this section have been performed. Such verification statement shall be sent to the department no later than June 30.

In addition to the inspection requirements prescribed in this section, the driver of each pupil transportation vehicle shall make daily inspections of such vehicle to ensure that all lights and equipment are fully operational or repaired

before his or her daily route. Reports of such daily inspections shall be kept by the driver in the vehicle and filed weekly with the head mechanic or administrator in charge of the transportation system. If the inspection reveals any significant defect in the lights or equipment, the driver shall immediately report the defect to the head mechanic or administrator in charge of the transportation system.

**Source:** Laws 1947, c. 304, § 1, p. 922; R.S.Supp.,1947, § 79-2113.03; Laws 1949, c. 256, § 126, p. 734; Laws 1959, c. 394, § 1, p. 1352; Laws 1965, c. 523, § 1, p. 1651; Laws 1971, LB 292, § 11; Laws 1973, LB 358, § 1; Laws 1977, LB 39, § 250; Laws 1980, LB 743, § 2; Laws 1982, LB 933, § 1; Laws 1987, LB 538, § 3; Laws 1994, LB 1310, § 4; R.S.1943, (1994), § 79-488; Laws 1996, LB 900, § 363; Laws 1999, LB 813, § 16; Laws 2001, LB 36, § 1; Laws 2003, LB 67, § 10; Laws 2013, LB222, § 33.

#### Cross References

**Motor carrier regulations**, scope of, see section 75-303.

**Penalty for violation of section**, see section 79-603.

**Registration fees**, see section 60-3,144.

**Safety glass required**, see section 60-6,263.

#### **79-603 Pupil transportation vehicles; safety features; violations; penalty.**

Any person who violates any provision of section 79-602 or who drives, moves, or causes or knowingly permits to be moved on any highway any vehicle or vehicles which exceed the limitations as to the safety features provided in such section for which a penalty is not elsewhere provided shall be guilty of a Class III misdemeanor.

For purposes of this section, highway shall have the meaning provided in section 60-624.

**Source:** Laws 1993, LB 370, § 479; R.S.1943, (1994), § 79-488.01; Laws 1996, LB 900, § 364.

#### **79-604 Pupils; transportation; buses; routes, posting with signs.**

The Department of Transportation shall post on state highways signs reading: Unlawful to pass school buses stopped to load or unload children. These signs shall be adequate in size and number to properly inform the public. School districts may obtain and post such signs on other bus route roads upon the approval of appropriate county officials. The Department of Transportation may furnish such signs at cost to school districts.

**Source:** Laws 1959, c. 396, § 2, p. 1355; R.S.1943, (1994), § 79-488.03; Laws 1996, LB 900, § 365; Laws 2017, LB339, § 271.

#### **79-605 Nonresident pupils; transportation; schedule of fees; applicability of section.**

Except as otherwise provided in this section, any school board may authorize the use of buses belonging to the school district for the transportation of school children residing outside such district. A fee sufficient to pay the additional costs of such transportation shall be charged each person so transported. The board shall prepare a schedule of all such fees charged, and a copy of such schedule shall be filed in the office of the superintendent of the school district.

This section shall not apply to an agreement for transportation entered into pursuant to section 79-241.

**Source:** Laws 1959, c. 394, § 2, p. 1352; Laws 1991, LB 207, § 1; Laws 1993, LB 348, § 20; R.S.1943, (1994), § 79-488.04; Laws 1996, LB 900, § 366; Laws 1999, LB 272, § 83; Laws 2018, LB377, § 57.

**Cross References**

**Public Elementary and Secondary Student Fee Authorization Act**, see section 79-2,125.

**79-606 Sale of school bus; alteration required; violation; penalty.**

When any vehicle with a manufacturer’s rated seating capacity of eleven or more passengers used for transportation of students is sold and used for any other purpose than for transportation of students, such vehicle shall be painted a distinct color other than that prescribed by the State Board of Education and the stop arms and system of alternately flashing warning signal lights on such vehicle shall be removed. It shall be the purchaser’s responsibility to see that the modifications required by this section are made. Any person violating this section shall be guilty of a Class V misdemeanor and, upon conviction thereof, be fined not less than twenty-five dollars nor more than one hundred dollars.

**Source:** Laws 1963, c. 459, § 1, p. 1487; Laws 1971, LB 292, § 12; Laws 1974, LB 863, § 10; Laws 1981, LB 316, § 2; Laws 1988, LB 1142, § 5; R.S.1943, (1994), § 79-488.05; Laws 1996, LB 900, § 367; Laws 2009, LB549, § 23.

**79-607 Pupil transportation vehicles; State Board of Education; rules and regulations; violations; penalty.**

The State Board of Education shall adopt and promulgate rules and regulations for operators of pupil transportation vehicles as to physical and mental qualities, driving skills and practices, and knowledge of traffic laws, rules, and regulations which relate to school bus transportation. Such traffic rules and regulations shall by reference be made a part of any such contract with a school district. Any officer or employee of any school district who violates any of the traffic rules or regulations or fails to include obligations to comply with the traffic rules and regulations in any contract executed by him or her on behalf of a school district may be guilty of a Class V misdemeanor and may, upon conviction thereof, be subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to comply with any of such traffic rules and regulations may be guilty of breach of contract, and such person may be dismissed or such contract may be canceled after notice and hearing by such school district.

**Source:** Laws 1996, LB 900, § 368; Laws 2016, LB1066, § 6.

A school bus driver’s contract is valid and enforceable if he complies with the statutory requirements before operating a bus, notwithstanding a failure to fully comply before the contract was entered into. *Rase v. Southeast Nebraska Consol. School Dist.*, 190 Neb. 800, 212 N.W.2d 629 (1973).

**79-608 Students; transportation; buses; operator; requirements; violation; penalty.**

(1) Any person, before operating a school bus, including any school bus which transports students by direct contract with the students or their parents and not owned by or under contract with the school district or nonpublic

school, shall submit himself or herself to an examination by a licensed physician to determine whether or not he or she meets the physical and mental standards established pursuant to section 79-607 and shall furnish to the school board or board of education or the governing authority of a nonpublic school a written report of each such examination on standard forms prescribed by the State Department of Education, signed by the person conducting the same, showing that he or she is qualified to operate a school bus and that he or she meets the physical and mental standards.

(2) It shall be unlawful for any person operating a school bus to be or remain on duty for a longer period than sixteen consecutive hours. When any person operating a bus has been continuously on duty for sixteen hours, he or she shall be relieved and not be permitted or required to again go on duty without having at least ten consecutive hours' rest off duty, and no such operator, who has been on duty sixteen hours in the aggregate in any twenty-four-hour period, shall be required or permitted to continue or again go on duty without having had at least eight consecutive hours off duty.

(3) Any person violating this section shall be guilty of a Class V misdemeanor. His or her contract with the school district shall be canceled as provided in section 79-607.

**Source:** Laws 1963, c. 460, § 1, p. 1488; Laws 1965, c. 523, § 3, p. 1653; Laws 1971, LB 292, § 13; Laws 1973, LB 358, § 2; Laws 1977, LB 39, § 251; Laws 1989, LB 285, § 142; Laws 1990, LB 980, § 35; R.S.1943, (1994), § 79-488.06; Laws 1996, LB 900, § 369; Laws 2009, LB549, § 24; Laws 2018, LB347, § 2.

A school bus driver's contract is valid and enforceable if he complies with the statutory requirements before operating a bus, notwithstanding a failure to fully comply before the contract was entered into. *Rase v. Southeast Nebraska Consol. School Dist.*, 190 Neb. 800, 212 N.W.2d 629 (1973).

**79-609 Pupils; transportation; buses; capacity; instruction in safe riding practice; emergency evacuation drills; occupant protection system; operator wear.**

(1) The school board or board of education, after consultation with a member of the Nebraska State Patrol, shall determine the number of passengers that may be safely transported in each bus.

(2)(a) Any company or agency that provides transportation of pupils by school bus and contracts directly with the pupils or their parents, (b) the school board or board of education of the public schools, and (c) the governing authority of any private, denominational, or parochial school in this state shall provide, at least twice during each school year to each pupil who is transported in a school bus, instruction in safe riding practice and participation in emergency evacuation drills.

(3) The operator of a school bus equipped with an occupant protection system as defined in section 60-6,265 shall wear such system whenever the vehicle is in motion.

**Source:** Laws 1965, c. 523, § 2, p. 1652; Laws 1974, LB 863, § 11; Laws 1992, LB 958, § 11; Laws 1993, LB 370, § 480; R.S.1943, (1994), § 79-488.07; Laws 1996, LB 900, § 370.

**79-610 Pupils; transportation; driver; liability policy; conditions.**

When a school board or board of education employs a driver to transport the pupils from their homes to the school and return and to and from other school-sponsored activities by any means, the board shall purchase a liability insurance policy in a limit of not less than fifty thousand dollars to cover the bodily injuries of one person, one hundred thousand dollars to cover bodily injuries to more than one person in the same accident, and ten thousand dollars to cover property damage, the premium on which shall be paid out of the school district treasury. Such policy shall be conditioned for the payment of any and all damages on account of bodily injury or death, or injury to or destruction of property that may accrue to any person or persons by reason of any negligence or carelessness in transporting pupils from their homes to school and return and to and from other school-sponsored activities. Such policy may, in the discretion of the board, contain a deductible provision for up to one thousand dollars of any claim, in which event the school district shall be considered a self-insurer for that amount.

**Source:** Laws 1939, c. 111, § 1, p. 482; C.S.Supp.,1941, § 79-2102; R.S.1943, § 79-2111; Laws 1949, c. 256, § 127, p. 735; Laws 1951, c. 281, § 1, p. 946; Laws 1969, c. 138, § 26, p. 637; R.S.1943, (1994), § 79-489; Laws 1996, LB 900, § 371.

**Cross References**

For relationship to Political Subdivisions Tort Claims Act, see section 13-901 et seq.

**79-611 Students; transportation; transportation allowance; when authorized; limitations; board; authorize service.**

(1) The school board of any school district shall provide free transportation, partially provide free transportation, or pay an allowance for transportation in lieu of free transportation as follows:

(a) When a student attends an elementary school in his or her own school district and lives more than four miles from such elementary school as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence;

(b) When a student is required to attend an elementary school outside of his or her own school district and lives more than four miles from such elementary school as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence;

(c) When a student attends a secondary school in his or her own Class I, II, or III school district and lives more than four miles from such secondary school as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence. This subdivision does not apply to any elementary-only school district that merged with a high-school-only school district to form a new Class I, II, or III school district on or after January 1, 1997, and before June 16, 2006; and

(d) When a student, other than a student in grades ten through twelve in a Class V school district, attends an elementary or junior high school in his or her own Class V school district and lives more than four miles from such elementary or junior high school as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence.

(2)(a) For school years prior to school year 2017-18 and as required pursuant to subsection (3) of section 79-241, the school board of any school district that

is a member of a learning community shall provide free transportation for a student who resides in such learning community and attends school in such school district if (i) the student is transferring pursuant to the open enrollment provisions of section 79-2110, qualifies for free or reduced-price lunches, lives more than one mile from the school to which he or she transfers, and is not otherwise disqualified under subdivision (2)(c) of this section, (ii) the student is transferring pursuant to the open enrollment provisions of section 79-2110, is a student who contributes to the socioeconomic diversity of enrollment at the school building he or she attends, lives more than one mile from the school to which he or she transfers, and is not otherwise disqualified under subdivision (2)(c) of this section, (iii) the student is attending a focus school or program and lives more than one mile from the school building housing the focus school or program, or (iv) the student is attending a magnet school or program and lives more than one mile from the magnet school or the school housing the magnet program.

(b) For purposes of this subsection, student who contributes to the socioeconomic diversity of enrollment at the school building he or she attends has the definition found in section 79-2110. This subsection does not prohibit a school district that is a member of a learning community from providing transportation to any intradistrict student.

(c) For any student who resides within a learning community and transfers to another school building pursuant to the open enrollment provisions of section 79-2110 and who had not been accepted for open enrollment into any school building within such school district prior to September 6, 2013, the school board is exempt from the requirement of subdivision (2)(a) of this section if (i) the student is transferring to another school building within his or her home school district or (ii) the student is transferring to a school building in a school district that does not share a common border with his or her home school district.

(3) The transportation allowance which may be paid to the parent, custodial parent, or guardian of students qualifying for free transportation pursuant to subsection (1) or (2) 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 school exceeds three miles. Such transportation allowance does not apply to students residing in a learning community who qualify for free or reduced-price lunches.

(4) Whenever students from more than one family travel to school in the same vehicle, the transportation allowance prescribed in subsection (3) 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 (3) 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 (3) 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 necessari-

ly 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.

(5) When a student who qualifies under the mileage requirements of subsection (1) of this section lives more than three miles from the location where the student must be picked up and dropped off in order to access school-provided free transportation, as measured by the shortest route that must actually and necessarily be traveled by motor vehicle between his or her residence and such location, such school-provided transportation shall be deemed partially provided free transportation. School districts partially providing free transportation shall pay an allowance to the student's parent or guardian equal to 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 location where the student must be picked up and dropped off exceeds three miles.

(6) 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. 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.

(7) No more than one allowance shall be made to a family irrespective of the number of students in a family being transported to school.

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

**Source:** Laws 1927, c. 84, § 1, p. 251; Laws 1929, c. 92, § 1, p. 348; C.S.1929, § 79-1902; Laws 1931, c. 149, § 1, p. 405; Laws 1941, c. 163, § 1, p. 650; C.S.Supp.,1941, § 79-1902; R.S.1943, § 79-1907; Laws 1949, c. 256, § 128, p. 735; Laws 1951, c. 276, § 6, p. 930; Laws 1955, c. 315, § 9, p. 979; Laws 1963, c. 483, § 1, p. 1553; Laws 1969, c. 717, § 1, p. 2743; Laws 1969, c. 718, § 1, p. 2744; Laws 1969, c. 719, § 1, p. 2746; Laws 1976, LB 852, § 1; Laws 1977, LB 117, § 1; Laws 1977, LB 33, § 10; Laws 1979, LB 425, § 1; Laws 1980, LB 867, § 2; Laws 1981, LB 204, § 156; Laws 1981, LB 316, § 3; Laws 1986, LB 419, § 1; Laws 1987, LB 200, § 1; Laws 1990, LB 259, § 22; Laws 1990, LB 1059, § 38; Laws 1993, LB 348, § 21; Laws 1994, LB 1311, § 1; R.S.1943, (1994), § 79-490; Laws 1996, LB 900, § 372; Laws 1997, LB 710, § 4; Laws 1997, LB 806, § 28; Laws 1999, LB 272, § 84; Laws 2003, LB 394, § 7; Laws 2005, LB 126, § 42; Laws 2006, LB 1024, § 56; Referendum 2006, No. 422; Laws 2007, LB641, § 10; Laws 2008, LB1154, § 8; Laws 2009, LB549, § 25; Laws 2013, LB410, § 8; Laws 2013, LB585, § 2; Laws 2016, LB1067, § 29; Laws 2018, LB377, § 58; Laws 2021, LB528, § 27; Laws 2024, LB1329, § 67.

Effective date July 19, 2024.

Subsection (4) of this section grants affiliated school districts the authority to provide free transportation to high school students residing in an affiliated Class I district, but neither creates any mandatory legal duty nor provides for the enforce-

ment of any duty. "May" in subsection (4) is to be interpreted as discretionary. Subsection (1) of this section provides that a school district must provide either free transportation or reimbursement at the statutory rate to high school students residing within that district. *State ex rel. Fick v. Miller*, 255 Neb. 387, 584 N.W.2d 809 (1998).

Implicit in this section is a school board's authority to provide free transportation to students if it chooses. *School Dist. of Waterloo v. Hutchinson*, 244 Neb. 665, 508 N.W.2d 832 (1993).

Section constitutional and not in violation of equal protection clause. *Warren v. Papillion School Dist. No. 27*, 199 Neb. 410, 259 N.W.2d 281 (1977).

Transportation allowance will be provided if child attending school resides more than specified distance from school. *Gal-*

*stan v. School Dist. of Omaha*, 177 Neb. 319, 128 N.W.2d 790 (1964).

This section does not apply to the transportation of a physically handicapped child to a special school outside of school district. *Schutte v. Decker*, 164 Neb. 582, 83 N.W.2d 69 (1957).

Claim for transportation allowance must be filed monthly. *George v. School Dist. No. 24 of Red Willow County*, 157 Neb. 791, 61 N.W.2d 401 (1953).

In absence of authorization by electors to require transportation, school board can pay mileage. *Bender v. Palmer*, 154 Neb. 350, 48 N.W.2d 65 (1951).

This section does not control allowance for transportation when school board closes school. *Batterman v. Bronderslev*, 150 Neb. 875, 36 N.W.2d 284 (1949).

**79-612 Pupils; transportation allowance; claims; contents; limitation upon action for recovery.**

All claims for transportation allowance under section 79-611 shall be filed for payment monthly. No action for recovery on any claim for transportation allowance filed with the secretary of the school board or board of education shall be brought after twelve months from the last day of any month of actual attendance for which attendance is claimed. All claims shall show the names of the students and the dates of the trips for which the allowance is claimed and shall be signed by the claimant.

**Source:** Laws 1941, c. 163, § 1, p. 650; C.S.Supp.,1941, § 79-1902; R.S.1943, § 79-1908; Laws 1949, c. 256, § 129, p. 736; Laws 1971, LB 215, § 1; R.S.1943, (1994), § 79-491; Laws 1996, LB 900, § 373.

Filing of claim monthly is a mandatory prerequisite to recovery. *George v. School Dist. No. 24 of Red Willow County*, 157 Neb. 791, 61 N.W.2d 401 (1953).

**79-613 Pupils; transportation allowance; temporary residence; attendance at another school; how computed.**

(1) When a student or students whose family would otherwise be eligible for the transportation allowance provided in section 79-611 reside temporarily for school purposes within four miles of the schoolhouse, the family of such student or students shall be paid two hundred eighty-five percent of the mileage rate provided in section 81-1176 for each mile actually and necessarily traveled by which the distance traveled one way from the residence of such family to the temporary residence exceeds three miles.

(2) When (a) a student or students whose family would otherwise be eligible for the transportation allowance provided in section 79-611 attend school in an adjacent school district due to convenience of the family and (b) the school district of residence pays tuition on behalf of such student or students pursuant to section 79-598, there shall also be paid by such school district of residence a transportation allowance equal to two hundred eighty-five percent of the mileage rate provided in section 81-1176 for each mile actually and necessarily traveled on each day of attendance by which the distance traveled one way from the residence of such student or students to the schoolhouse in the adjacent school district exceeds three miles.

**Source:** Laws 1929, c. 92, § 1, p. 348; C.S.1929, § 79-1902; Laws 1931, c. 149, § 1, p. 405; Laws 1941, c. 163, § 1, p. 650; C.S.Supp.,1941,



§ 79-1902; R.S.1943, § 79-1909; Laws 1949, c. 256, § 130, p. 736; Laws 1963, c. 483, § 2, p. 1554; Laws 1986, LB 419, § 2; R.S.1943, (1994), § 79-492; Laws 1996, LB 900, § 374.

**ARTICLE 7**

**ACCREDITATION, CURRICULUM, AND INSTRUCTION**

(a) MISSION AND INTENT FOR THE PUBLIC SCHOOLS

- Section 79-701. Mission of public school system.
- 79-702. Public school system; legislative intent.

(b) ACCREDITATION

- 79-703. Public schools; education programs in state institutions that house juveniles; approval and accreditation standards; accreditation committee; duties; legislative intent.
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- 79-717. Repealed. Laws 2018, LB377, § 87.
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## SCHOOLS

### Section

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- 79-753. Repealed. Laws 1997, LB 347, § 59.
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## Section

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## (a) MISSION AND INTENT FOR THE PUBLIC SCHOOLS

**79-701 Mission of public school system.**

The Legislature hereby finds and declares that the mission of the State of Nebraska, through its public school system, is to:

- (1) Offer each individual the opportunity to develop competence in the basic skills of communications, computations, and knowledge of basic facts concerning the environment, history, and society;
- (2) Offer each individual the opportunity to develop higher order thinking and problem-solving skills by means of adequate preparation in mathematics, science, the social sciences, and foreign languages and by means of appropriate and progressive use of technology;
- (3) Instill in each individual the ability and desire to continue learning throughout his or her life;
- (4) Encourage knowledge and understanding of political society and democracy in order to foster active participation;
- (5) Encourage the creative potential of each individual through exposure to the fine arts and humanities;
- (6) Encourage a basic understanding of and aid the development of good health habits; and
- (7) Offer each individual the opportunity for career exploration and awareness.

**Source:** Laws 1984, LB 994, § 1; R.S.1943, (1994), § 79-4,140.01; Laws 1996, LB 900, § 375.

**79-702 Public school system; legislative intent.**

- (1) The Legislature recognizes that education as an investment in human resources is fundamental to the quality of life and economic development of

Nebraskans. The Legislature further recognizes that public education faces ever growing challenges in an era of accelerated change, sophisticated information systems, high technology, and global markets. It is the intent of the Legislature to join with local governing bodies in a strong and ongoing partnership to further advance the quality and responsiveness of Nebraska's education system.

(2) It is the intent of the Legislature to encourage and support all public schools in this state in order to carry out the state's mission to promote quality education as described in section 79-701. Attracting and retaining highly qualified instructors in order to foster and improve a student's learning experience is a key factor in quality education. The Legislature intends to foster high standards of performance for teachers, students, administrators, and programs of instruction in the public schools so that each person of school age shall have the opportunity to receive a quality education regardless of the size, wealth, or geographic location of the school district in which such person resides.

(3) The Legislature intends that the schools meet the individual needs and develop the particular skills of all young Nebraskans. The Legislature further intends that all persons who graduate from Nebraska high schools possess certain minimum levels of knowledge, skills, and understanding.

(4) The Legislature recognizes that the resources of the state should be used efficiently to support the public school system of this state. The Legislature intends to foster, encourage, and, where necessary, mandate the cooperation of all public education service providers, including public school districts, educational service units, and the State Department of Education, in order to achieve a quality education system.

**Source:** Laws 1984, LB 994, § 2; R.S.1943, (1994), § 79-4,140.02; Laws 1996, LB 900, § 376.

#### (b) ACCREDITATION

**79-703 Public schools; education programs in state institutions that house juveniles; approval and accreditation standards; accreditation committee; duties; legislative intent.**

(1) To ensure both equality of opportunity and quality of programs offered, all public schools in the state shall be required to meet quality and performance-based approval or accreditation standards as prescribed by the State Board of Education. Beginning August 1, 2025, accreditation standards shall require each school district to develop and adopt a policy relating to behavioral intervention, behavioral management, classroom management, and removal of a student from a classroom in accordance with section 79-262.01. The board shall establish a core curriculum standard, which shall include multicultural education and vocational education courses, for all public schools in the state. Accreditation and approval standards shall be designed to assure effective schooling and quality of instructional programs regardless of school size, wealth, or geographic location. Accreditation standards for school districts that are members of a learning community shall include participation in the community achievement plan for the learning community as approved by the board. Accreditation standards for education programs in state institutions under the supervision of the Department of Health and Human Services that house juveniles shall include an annual report to the State Board of Education by the superintendent of institutional schools. The board shall recognize and

encourage the maximum use of cooperative programs and may provide for approval or accreditation of programs on a cooperative basis, including the sharing of administrative and instructional staff, between school districts for the purpose of meeting the approval and accreditation requirements established pursuant to this section and section 79-318.

(2) The Commissioner of Education shall appoint an accreditation committee which shall be representative of the educational institutions and agencies of the state and shall include as a member the director of admissions of the University of Nebraska.

(3) The accreditation committee shall be responsible for: (a) Recommending appropriate standards and policies with respect to the accreditation and classification of schools; and (b) making recommendations annually to the commissioner relative to the accreditation and classification of individual schools. No school shall be considered for accreditation status which has not first fulfilled all requirements for an approved school.

(4) All public schools in the state, including, but not limited to, schools operated by school districts and education programs in state institutions under the supervision of the Department of Health and Human Services that house juveniles, shall be accredited.

(5) It is the intent of the Legislature that all public school students shall have access to all educational services required of accredited schools. Such services may be provided through cooperative programs or alternative methods of delivery.

**Source:** Laws 1949, c. 248, § 1, p. 672; Laws 1953, c. 311, § 3, p. 1035; Laws 1984, LB 994, § 7; Laws 1985, LB 633, § 5; Laws 1988, LB 940, § 10; R.S.Supp., 1988, § 79-1247.02; Laws 1989, LB 15, § 3; Laws 1990, LB 259, § 30; Laws 1992, LB 922, § 6; R.S.1943, (1994), § 79-4,140.16; Laws 1996, LB 900, § 377; Laws 2016, LB1067, § 30; Laws 2020, LB1188, § 15; Laws 2023, LB705, § 78.

#### Cross References

**Multicultural education program**, see section 79-719 et seq.

**Private, denominational, or parochial schools**, election not to meet approval or accreditation requirements, see section 79-1601.

**Vocational education**, interdistrict agreements, see section 79-745 et seq.

Constitutionality of this section was not passed upon because not raised in district court. *Ebberson v. School Dist. No. 64 of Cedar County*, 180 Neb. 119, 141 N.W.2d 452 (1966).

The purpose of accreditation is to maintain adequate school programs and to provide better instructional opportunities. *Pribil v. French*, 179 Neb. 602, 139 N.W.2d 356 (1966).

This section did not go beyond protecting the interests of the state in education. *De Jonge v. School Dist. of Bloomington*, 179

Neb. 539, 139 N.W.2d 296 (1966); *Meyerkorth v. State*, 173 Neb. 889, 115 N.W.2d 585 (1962).

Accreditation and approval are two separate and entirely different duties. *School Dist. No. 39 of Washington County v. Decker*, 159 Neb. 693, 68 N.W.2d 354 (1955).

#### 79-704 Biennial secondary course offerings; authorized; when.

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

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

**Source:** Laws 1985, LB 633, § 6; Laws 1986, LB 997, § 13; R.S.1943, (1987), § 79-1241; Laws 1989, LB 15, § 2; R.S.1943, (1994), § 79-4,140.15; Laws 1996, LB 900, § 378; Laws 2006, LB 1208, § 2.

### (c) CURRICULUM AND INSTRUCTION REQUIREMENTS

#### **79-705 State Fire Day; Fire Recognition Day; designation; how observed.**

For the purpose of creating public sentiment and calling public attention to the great damage caused both to life and property by fire, the Friday before Fire Recognition Day shall be designated and known as State Fire Day. State Fire Day shall be observed by the public, private, and parochial schools of the state with exercises appropriate to the subject and the day. The second Saturday in May is designated and shall be known as Fire Recognition Day.

**Source:** Laws 1911, c. 126, § 1, p. 431; R.S.1913, § 6850; C.S.1922, § 6421; C.S.1929, § 79-1201; R.S.1943, § 79-1201; Laws 1949, c. 256, § 160, p. 746; Laws 1971, LB 917, § 1; R.S.1943, (1994), § 79-4,122; Laws 1996, LB 900, § 379; Laws 1997, LB 347, § 18.

#### **79-706 Fire prevention instruction; requirements.**

In addition to any required monthly fire drill, every public, private, denominational, or parochial school shall provide regular periods of instruction in the subject of fire dangers and in methods of fire prevention.

**Source:** Laws 1911, c. 126, § 2, p. 431; R.S.1913, § 6851; C.S.1922, § 6422; C.S.1929, § 79-1202; R.S.1943, § 79-1202; Laws 1949, c. 256, § 161, p. 746; Laws 1972, LB 1284, § 21; Laws 1982, LB 933, § 3; Laws 1984, LB 749, § 1; R.S.1943, (1994), § 79-4,123; Laws 1996, LB 900, § 380.

#### **Cross References**

For school drills under supervision of the State Fire Marshal, see section 81-527.

#### **79-707 Flags; United States; State of Nebraska; display.**

The flags of the United States of America and of the State of Nebraska shall be prominently displayed on the school grounds of every public school in the state on each day that such school is in session, in accordance with the standards prescribed for the display of the flag of the United States of America. For the purposes of this section and section 79-708, public school shall mean all institutions of learning supported in whole or in part by public funds, including those providing postsecondary education.

**Source:** Laws 1971, LB 218, § 1; R.S.1943, (1994), § 79-4,128.01; Laws 1996, LB 900, § 381.

#### **Cross References**

Americanism instruction, see section 79-724.

#### **79-708 Flags and flagstuffs; provide; payment.**

The governing body of each school shall provide suitable flags and flagstaffs to carry out the provisions of this section and section 79-707, and the cost of such flags and flagstaffs shall be paid from the general operating funds of each school.

**Source:** Laws 1971, LB 218, § 2; R.S.1943, (1994), § 79-4,128.02; Laws 1996, LB 900, § 382.

**79-709 School work; annual exhibit; how conducted; premiums.**

There may be held at the county fair or other place in each county, under the supervision and direction of the county board of commissioners or county board of supervisors or its designee, an exhibit of school work done in each school district of the county during the current school year. The nature and character of the exhibit shall be determined by the county board. The county board may annually offer and award premiums intended to stimulate the interest in school affairs. A list of premiums to be awarded shall be mailed by the county board or its designee to the teacher, principal, or superintendent of each public, private, denominational, and parochial school in each school district in the county on or before January 15 of each year in which an exhibit shall be held.

**Source:** Laws 1919, c. 247, § 1, p. 1016; C.S.1922, § 6543; Laws 1927, c. 89, § 1, p. 258; C.S.1929, § 79-2120; R.S.1943, § 79-2129; Laws 1949, c. 256, § 177, p. 750; Laws 1963, c. 486, § 1, p. 1557; R.S.1943, (1994), § 79-4,139; Laws 1996, LB 900, § 383; Laws 1999, LB 272, § 85.

**79-710 American Sign Language.**

The State Department of Education may provide for the teaching of American Sign Language in public, private, denominational, and parochial schools. If a school offers a course in American Sign Language, such course shall be offered to all students and may be used for world language credits by the school.

**Source:** Laws 2020, LB965, § 2.

**79-711 Repealed. Laws 1997, LB 347, § 59.**

**79-712 Public school; health education; requirements.**

Provisions shall be made by the proper local school authorities for instructing the pupils in all public schools in a comprehensive health education program which shall include instruction (1) as to the physiological, psychological, and sociological aspects of drug use, misuse, and abuse and (2) on intellectual disability and other developmental disabilities, such as cerebral palsy, autism, and epilepsy, their causes, and the prevention thereof through proper nutrition and the avoidance of the consumption of drugs as defined in this section. For purposes of this section, drugs means any and all biologically active substances used in the treatment of illnesses or for recreation or pleasure. Special emphasis shall be placed upon the commonly abused drugs of tobacco, alcohol, marijuana, hallucinogenics, amphetamines, barbiturates, and narcotics.

**Source:** Laws 1885, c. 83, § 1, p. 332; R.S.1913, § 6878; C.S.1922, § 6446; C.S.1929, § 79-1409; R.S.1943, § 79-1408; Laws 1949, c. 256, § 370, p. 815; Laws 1971, LB 51, § 1; Laws 1982, LB 423,

§ 1; R.S.1943, (1987), § 79-1270; Laws 1989, LB 15, § 4; R.S. 1943, (1994), § 79-4,140.17; Laws 1996, LB 900, § 386; Laws 2013, LB23, § 44.

**79-713 Commissioner of Education; drug education; course on health education; prepare; distribute.**

The Commissioner of Education shall prepare such teaching aids and materials as may be necessary for an effective course in comprehensive health education, which shall include drug education, for distribution to all public and private schools requesting such materials and approved for continued legal operation under rules and regulations adopted and promulgated by the State Board of Education pursuant to subdivision (5)(c) of section 79-318.

**Source:** Laws 1971, LB 51, § 2; R.S.1943, (1987), § 79-1270.01; Laws 1989, LB 15, § 5; R.S.1943, (1994), § 79-4,140.18; Laws 1996, LB 900, § 387.

**79-714 School systems; tobacco, alcohol, and drugs; failure to instruct; action of State Department of Education.**

School systems failing to meet the provisions of sections 79-712 and 79-713 shall be guilty of a deviation from the rules and regulations for the approval and accreditation of schools, and proper action by the State Department of Education shall be taken.

**Source:** Laws 1971, LB 51, § 3; R.S.1943, (1987), § 79-1270.02; Laws 1989, LB 15, § 6; R.S.1943, (1994), § 79-4,140.19; Laws 1996, LB 900, § 388.

**79-715 Eye protective devices; required; when; term, defined; commissioner; duties.**

(1) Every student and teacher in schools or other educational institutions shall be required to wear appropriate industrial-quality eye protective devices at all times while participating in or observing the following courses of instruction:

(a) Vocational, technical, industrial arts, chemical, or chemical-physical, involving exposure to:

(i) Hot molten metals or other molten materials;

(ii) Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials;

(iii) Heat treatment, tempering, or kiln firing of any metal or other materials;

(iv) Gas or electric arc welding or other forms of welding processes;

(v) Repair or servicing of any vehicle; or

(vi) Caustic or explosive materials; and

(b) Chemical, physical, or combined chemical-physical laboratories involving caustic or explosive materials, hot liquids or solids, injurious radiations, or other hazards not enumerated.

Such devices shall be furnished by the school or educational institution for all students, teachers, and visitors to shops and laboratories of such institutions.

(2) For purposes of this section, unless the context otherwise requires, industrial-quality eye protective devices means devices which meet the standard



of the American National Standard Practice for Occupational and Educational Eye and Face Protection, Z 87.1(1979) as approved by the American National Standards Institute, Inc.

(3) The Commissioner of Education shall prepare and circulate to each public and private educational institution in this state instructions and recommendations for implementing the eye safety provisions of this section.

**Source:** Laws 1984, LB 999, § 1; R.S.1943, (1994), § 79-4,144; Laws 1996, LB 900, § 389; Laws 2002, LB 1172, § 12.

**Cross References**

Postsecondary educational institutions, eye protective devices, see section 85-901.

**79-716 Repealed. Laws 2018, LB377, § 87.**

**79-717 Repealed. Laws 2018, LB377, § 87.**

**79-718 Junior Mathematics Prognosis Examination; legislative intent.**

It is the intent of the Legislature that the Junior Mathematics Prognosis Examination be available to every student in the eleventh grade in Nebraska in order to measure his or her level of preparation for college-level mathematics.

The immediate goal of the examination is to decrease the number of Nebraska first-year college students who begin college mathematics at a remedial level. The long-term goal is to help develop a more mathematically and scientifically literate society.

**Source:** Laws 1989, LB 134, § 1; R.S.1943, (1994), § 79-4,221; Laws 1996, LB 900, § 392.

**79-719 Multicultural education, defined.**

For purposes of sections 79-719 to 79-723, multicultural education includes, but is not limited to, studies relative to the culture, history, and contributions of African Americans, Hispanic Americans, Native Americans, and Asian Americans. Special emphasis shall be placed on human relations and sensitivity toward all races.

**Source:** Laws 1992, LB 922, § 1; R.S.1943, (1994), § 79-4,229; Laws 1996, LB 900, § 393.

**79-720 Multicultural education program; incorporation into curriculum; department; duties.**

(1) Each school district, in consultation with the State Department of Education, shall develop for incorporation into all phases of the curriculum of grades kindergarten through twelve a multicultural education program.

(2) The department shall create and distribute recommended multicultural education curriculum guidelines to all school districts. Each district shall create its own multicultural education program based on such recommended guidelines.

(3) The incorporation of the multicultural education program into the curriculum of each district shall not change (a) the number of instructional hours

prescribed for elementary and high school students or (b) the number of instructional hours dedicated to the existing curriculum of each district.

**Source:** Laws 1992, LB 922, § 2; Laws 1993, LB 27, § 1; R.S.1943, (1994), § 79-4,230; Laws 1996, LB 900, § 394; Laws 2011, LB333, § 2.

**79-721 Multicultural education; school districts and department; duties; loss of accreditation.**

(1) Each school district shall present evidence annually, in a form prescribed by the State Department of Education, to the department that multicultural education is being taught to students pursuant to section 79-720. The department shall evaluate the effectiveness of the multicultural education program and establish reasonable timelines for the submission of such evidence.

(2) A school district which fails to provide or fails to provide evidence annually of multicultural education pursuant to such section shall lose its accreditation status.

**Source:** Laws 1992, LB 922, § 3; R.S.1943, (1994), § 79-4,231; Laws 1996, LB 900, § 395.

**79-722 Evaluation of multicultural education program; report.**

In conjunction with the multicultural education program prescribed in section 79-720, the State Department of Education shall design a process for evaluating the implementation and effectiveness of each multicultural education program, including the collection of baseline data. The collection of baseline data for evaluating the implementation and effectiveness of each multicultural education program shall not include the testing, assessment, or evaluation of individual students' attitudes or beliefs. An evaluation of the implementation and effectiveness of each multicultural education program shall be conducted every five school years. On or before November 1, 2013, and on or before November 1 every five years thereafter, the department shall report the results of each evaluation to the Clerk of the Legislature, the Education Committee of the Legislature, and the State Board of Education and publish such report on a website established by the department. The report submitted to the Clerk of the Legislature and the committee shall be submitted electronically.

**Source:** Laws 1992, LB 922, § 4; Laws 1993, LB 27, § 2; R.S.1943, (1994), § 79-4,232; Laws 1996, LB 900, § 396; Laws 2011, LB333, § 3; Laws 2012, LB782, § 150.

**79-723 Multicultural education; rules and regulations.**

The State Department of Education shall adopt and promulgate rules and regulations to carry out sections 79-719 to 79-722.

**Source:** Laws 1992, LB 922, § 5; R.S.1943, (1994), § 79-4,233; Laws 1996, LB 900, § 397.

**79-724 Committee on American civics; created; duties; school board, State Board of Education, and superintendent; duties.**

It is the responsibility of society to ensure that youth are given the opportunity to become competent, responsible, patriotic, and civil citizens to ensure a

strong, stable, just, and prosperous America. Such a citizenry necessitates that every member thereof be knowledgeable of our nation's history, government, geography, and economic system. The youth in our state should be committed to the ideals and values of our country's democracy and the constitutional republic established by the people. Schools should help prepare our youth to make informed and reasoned decisions for the public good. Civic competence is necessary to sustain and improve our democratic way of life and must be taught in all public, private, denominational, and parochial schools. A central role of schools is to impart civic knowledge and skills that help our youth to see the relevance of a civic dimension for their lives. Students should be made fully aware of the liberties, opportunities, and advantages we possess and the sacrifices and struggles of those through whose efforts these benefits were gained. Since young people are most susceptible to the acceptance of principles and doctrines that will influence them throughout their lives, it is one of the first duties of our educational system to conduct its activities, choose its textbooks, and arrange its curriculum in such a way that the youth of our state have the opportunity to become competent, responsible, patriotic, and civil American citizens.

(1) The school board of each school district shall, at the beginning of each calendar year, appoint from its members a committee of three, to be known as the committee on American civics, which shall:

(a) Hold no fewer than two public meetings annually, at least one when public testimony is accepted;

(b) Keep minutes of each meeting showing the time and place of the meeting, which members were present or absent, and the substance and details of all matters discussed;

(c) Examine and ensure that the social studies curriculum used in the district is aligned with the social studies standards adopted pursuant to section 79-760.01 and teaches foundational knowledge in civics, history, economics, financial literacy, and geography;

(d) Review and approve the social studies curriculum to ensure that it stresses the services of the men and women who played a crucial role in the achievement of national independence, establishment of our constitutional government, and preservation of the union and includes the incorporation of multicultural education as set forth in sections 79-719 to 79-723 in order to instill a pride and respect for the nation's institutions and not be merely a recital of events and dates;

(e) Ensure that any curriculum recommended or approved by the committee on American civics is made readily accessible to the public and contains a reference to this section;

(f) Ensure that the district develops and utilizes formative, interim, and summative assessments to measure student mastery of the social studies standards adopted pursuant to section 79-760.01;

(g) Ensure that the social studies curriculum in the district incorporates one or more of the following for each student:

(i) Administration of a written test that is identical to the entire civics portion of the naturalization test used by United States Citizenship and Immigration Services prior to the completion of eighth grade and again prior to the

completion of twelfth grade with the individual score from each test for each student made available to a parent or guardian of such student; or

(ii) Attendance or participation between the commencement of eighth grade and completion of twelfth grade in a meeting of a public body as defined by section 84-1409 followed by the completion of a project or paper in which each student demonstrates or discusses the personal learning experience of such student related to such attendance or participation; or

(iii) Completion of a project or paper and a class presentation between the commencement of eighth grade and the completion of twelfth grade on a person or persons or an event commemorated by a holiday listed in subdivision (6) of this section or on a topic related to such person or persons or event; and

(h) Take all such other steps as will assure the carrying out of the provisions of this section and provide a report to the school board regarding the committee's findings and recommendations.

(2) All social studies courses approved for grade levels as provided by this section shall include and adequately stress contributions of all ethnic groups to (a) the development and growth of America into a great nation, (b) art, music, education, medicine, literature, science, politics, and government, and (c) the military in all of this nation's wars.

(3) All grades of all public, private, denominational, and parochial schools, below the sixth grade, shall devote at least one hour per week to exercises or teaching periods for the following purpose:

(a) The discussion of noteworthy events pertaining to American history or the exceptional acts of individuals and groups of Americans;

(b) The historical background, memorization, and singing of patriotic songs such as the Star-Spangled Banner and America the Beautiful;

(c) The development of respect for the American flag as a symbol of freedom and the sacrifices of those who secured that freedom; and

(d) Instruction as to proper conduct in the presentation of the American flag.

(4) In at least two of the three grades from the fifth grade to the eighth grade in all public, private, denominational, and parochial schools, time shall be set aside for the teaching of American history from the social studies curriculum, which shall be taught in such a manner that all students are given the opportunity to (a) become competent, responsible, patriotic, and civil citizens who possess a deep understanding of and respect for both the Constitution of the United States and the Constitution of Nebraska and (b) prepare to preserve, protect, and defend freedom and democracy in our nation and our world.

(5) In at least two courses in every high school, time shall be devoted to the teaching of civics and American history as outlined in the social studies standards adopted pursuant to section 79-760.01, during which specific attention shall be given to the following matters:

(a) The Declaration of Independence, the United States Constitution, the Constitution of Nebraska, and the structure and function of local government in this state;

(b) The benefits and advantages of representative government, the rights and responsibilities of citizenship in our government, and the dangers and fallacies of forms of government that restrict individual freedoms or possess antidemocratic ideals such as, but not limited to, Nazism and communism;

(c) The duties of citizenship, which include active participation in the improvement of a citizen's community, state, country, and world and the value and practice of civil discourse between opposing interests; and

(d) The application of knowledge in civics, history, economics, financial literacy, and geography to address societal issues.

(6) Appropriate patriotic exercises suitable to the occasion shall be held under the direction of the superintendent in every public, private, denominational, and parochial school on George Washington's birthday, Abraham Lincoln's birthday, Dr. Martin Luther King, Jr.'s birthday, Native American Heritage Day, Constitution Day, Memorial Day, Veterans Day, and Thanksgiving Day, or on the day or week preceding or following such holiday, if the school is in session.

(7) Every school board, the State Board of Education, and the superintendent of each school district in the state shall be held directly responsible in the order named for carrying out this section. Neglect thereof by any employee may be considered a cause for dismissal.

**Source:** Laws 1949, c. 256, § 19, p. 697; Laws 1969, c. 705, § 1, p. 2705; Laws 1971, LB 292, § 3; R.S.1943, (1994), § 79-213; Laws 1996, LB 900, § 398; Laws 1999, LB 272, § 86; Laws 2011, LB544, § 1; Laws 2019, LB399, § 1.

#### Cross References

Flag display requirements, see section 79-707.

#### **79-725 Character education; principles of instruction; duty of teachers.**

Each teacher employed to give instruction in any public, private, parochial, or denominational school in the State of Nebraska shall arrange and present his or her instruction to give special emphasis to common honesty, morality, courtesy, obedience to law, respect for the national flag, the United States Constitution, and the Constitution of Nebraska, respect for parents and the home, the dignity and necessity of honest labor, and other lessons of a steadying influence which tend to promote and develop an upright and desirable citizenry.

**Source:** Laws 1927, c. 85, § 1, p. 253; C.S.1929, § 79-2131; R.S.1943, § 79-2139; Laws 1949, c. 256, § 20, p. 699; R.S.1943, (1994), § 79-214; Laws 1996, LB 900, § 399.

#### **79-726 Character education; outline of instruction; duty of Commissioner of Education.**

The Commissioner of Education shall prepare an outline with suggestions such as in his or her judgment will best accomplish the purpose set forth in section 79-725 and shall incorporate the same in the regular course of study for the first twelve grades of all schools of the State of Nebraska.

**Source:** Laws 1927, c. 85, § 2, p. 253; C.S.1929, § 79-2132; R.S.1943, § 79-2140; Laws 1949, c. 256, § 21, p. 700; R.S.1943, (1994), § 79-215; Laws 1996, LB 900, § 400.

#### **79-727 Rules and regulations; State Department of Education; duties.**

The State Board of Education shall adopt and promulgate rules and regulations to carry out the provisions of sections 79-724 to 79-726. The State

Department of Education shall ensure that all requirements of such sections and such rules and regulations are carried out by each school district.

**Source:** Laws 1996, LB 900, § 401; Laws 2019, LB399, § 2.

**79-728 Kindergarten programs; required.**

All school districts shall offer a kindergarten program.

**Source:** Laws 1988, LB 1197, § 2; R.S.1943, (1994), § 79-201.11; Laws 1996, LB 900, § 402; Laws 2018, LB377, § 59.

**Cross References**

**Kindergarten**, entrance requirements, see section 79-214.

(d) HIGH SCHOOL GRADUATION REQUIREMENTS  
AND EQUIVALENCY DIPLOMA

**79-729 High school students; graduation requirements; exceptions.**

(1) The Legislature recognizes the importance of assuring that all persons who graduate from Nebraska high schools possess certain minimum levels of knowledge, skills, and understanding. Each high school student shall complete a minimum of two hundred high school credit hours prior to graduation. At least eighty percent of the minimum credit hours shall be core curriculum courses prescribed by the State Board of Education.

(2) For students attending a public school:

(a) Beginning in school year 2023-24, at least five of the minimum credit hours shall be a high school course in personal finance or financial literacy; and

(b) Beginning in school year 2027-28, at least five of the minimum credit hours shall include computer science and technology education as required under section 79-3304.

(3)(a) Beginning in school year 2024-25, each public high school student shall complete and submit to the United States Department of Education a Free Application for Federal Student Aid prior to graduating from such high school except as otherwise provided in this subsection.

(b) A public high school student shall not be required to comply with subdivision (3)(a) of this section if:

(i) A parent or legal guardian of or a person standing in loco parentis to such student signs and submits to the school principal the appropriate form prescribed by the Commissioner of Education pursuant to subdivision (3)(c) of this section indicating that such parent, legal guardian, or person standing in loco parentis authorizes such student to decline to complete and submit a Free Application for Federal Student Aid;

(ii) The school principal or the school principal's designee signs the appropriate form prescribed by the Commissioner of Education pursuant to subdivision (3)(c) of this section authorizing such student to decline to complete and submit a Free Application for Federal Student Aid for good cause as determined by the school principal or the school principal's designee; or

(iii) A student who is nineteen years of age or older or is an emancipated minor signs and submits the appropriate form prescribed by the Commissioner of Education pursuant to subdivision (3)(c) of this section stating that such

student declines to complete and submit a Free Application for Federal Student Aid.

(c) The Commissioner of Education shall prescribe the forms to be used by each public high school for purposes of compliance with subdivision (3)(b) of this section. Such forms shall be made available:

(i) By each public high school to students, parents and legal guardians of students, and persons standing in loco parentis to students; and

(ii) In English, Spanish, and any other language spoken by a majority of the students enrolled in any English learner program at such public high school.

(d) The school principal or the school principal's designee of each public high school shall provide such compliance information to the school district or governing authority for such public high school and to the State Department of Education without disclosing, for any student who has complied with the requirements of this subsection, personally identifiable information distinguishing whether such compliance was pursuant to subdivision (3)(a) or (b) of this section. Such school principal or school principal's designee shall provide separately the aggregate number of students who have not complied with this subsection, who complied pursuant to subdivision (3)(a) of this section, and who complied pursuant to subdivision (3)(b) of this section, unless otherwise prohibited by federal or state law regarding the confidentiality of student educational information.

(e) On or before December 31, 2025, and on or before December 31 of each year thereafter, the Commissioner of Education shall electronically submit a report with the information received by the State Department of Education pursuant to subdivision (3)(d) of this section to the Clerk of the Legislature.

(4) The State Board of Education may establish recommended statewide graduation guidelines.

(5) This section does not apply to high school students whose individualized education programs prescribe a different course of instruction.

(6) For purposes of this section, high school means grades nine through twelve and credit hour shall be defined by appropriate rules and regulations of the State Board of Education but shall not be less than the amount of credit given for successful completion of a course which meets at least one period per week for at least one semester.

(7) The State Board of Education may adopt and promulgate rules and regulations as necessary to implement this section. Such rules and regulations may include, but are limited to:

(a) A timeline for the distribution of the Free Application for Federal Student Aid and the forms prescribed pursuant to subdivision (3)(c) of this section by public high schools and for the submission of the Free Application for Federal Student Aid and the forms prescribed pursuant to subdivision (3)(c) of this section; and

(b) Standards regarding the information that a public high school must provide to students regarding:

(i) Instructions for filling out the Free Application for Federal Student Aid;

(ii) The options available to a student under subdivision (3)(b) of this section if a student wishes to decline to complete and submit a Free Application for Federal Student Aid; and

(iii) The method by which a student shall provide proof to the public high school that such student has completed and submitted the Free Application for Federal Student Aid or a form prescribed pursuant to subdivision (3)(c) of this section.

**Source:** Laws 1984, LB 994, § 8; R.S.1943, (1994), § 79-4,140.03; Laws 1996, LB 900, § 403; Laws 2021, LB452, § 5; Laws 2022, LB1112, § 6; Laws 2023, LB705, § 79; Laws 2024, LB1329, § 68.

Effective date July 19, 2024.

**Cross References**

**Financial Literacy Act**, see section 79-3001.

**79-730 Diploma of high school equivalency; issuance by Commissioner of Education; conditions.**

The Commissioner of Education may issue a diploma of high school equivalency conveying all the significance and privilege of a regular high school diploma to any person who is not a high school graduate if:

(1) The person is and has been a resident of Nebraska for at least thirty days immediately preceding application or if his or her final period of high school attendance during which credit was earned toward graduation was in a Nebraska high school;

(2) On the basis of such person's achievements in approved tests and other criteria deemed pertinent by the Commissioner of Education, there is reasonable certainty that he or she has attained the educational development and abilities of the typical high school graduate; and

(3) Such person has attained his or her eighteenth birthday and is unable to secure a diploma from the high school he or she last attended or the class in which he or she was enrolled at the time of his or her withdrawal from school has been graduated for at least one year.

**Source:** Laws 1959, c. 399, § 1, p. 1358; Laws 1969, c. 721, § 2, p. 2750; Laws 1975, LB 449, § 1; R.S.1943, (1994), § 79-4,147.01; Laws 1996, LB 900, § 404.

**79-731 Diploma of high school equivalency; application; fee; disbursement; duplicate; transcript; fees.**

The application for a diploma of high school equivalency shall be submitted on a form to be furnished by the Commissioner of Education and shall be accompanied by a fee of five dollars which will not be refundable under any circumstances. A fee of two dollars shall be charged for the issuance of a duplicate diploma of high school equivalency. A fee of two dollars shall be charged for the issuance of an official transcript. All fees collected for the issuance or reissuance of such a diploma shall be remitted to the State Treasurer for credit to the General Fund.

**Source:** Laws 1959, c. 399, § 2, p. 1359; Laws 1969, c. 721, § 3, p. 2751; Laws 1975, LB 449, § 2; Laws 1982, LB 928, § 71; R.S.1943, (1994), § 79-4,147.02; Laws 1996, LB 900, § 405.

**79-732 Diploma of high school equivalency; State Board of Education; rules and regulations; adopt.**



The State Board of Education shall adopt reasonable rules and regulations for the administration of sections 79-730 to 79-732, and the decision of the State Board of Education with reference to the eligibility of an applicant for a diploma of high school equivalency shall be final.

**Source:** Laws 1959, c. 399, § 3, p. 1359; Laws 1975, LB 449, § 3; R.S.1943, (1994), § 79-4,147.03; Laws 1996, LB 900, § 406.

**79-733 Diplomas of high school equivalency; acceptance by colleges.**

Diplomas of high school equivalency issued pursuant to section 79-730 shall be accepted by the University of Nebraska, the community colleges, and the state colleges for enrollment purposes.

**Source:** Laws 1969, c. 721, § 5, p. 2751; Laws 1975, LB 449, § 4; R.S.1943, (1994), § 79-4,147.04; Laws 1996, LB 900, § 407.

(e) BOOKS, EQUIPMENT, AND SUPPLIES

**79-734 School textbooks, equipment, and supplies; purchase and loan; rules and regulations; department; duties.**

(1)(a) School boards and boards of education of all classes of school districts shall purchase all textbooks, equipment, and supplies necessary for the schools of such district. The duty to make such purchases may be delegated to employees of the school district.

(b) School boards and boards of education shall purchase and loan textbooks to all children who are enrolled in kindergarten to grade twelve of a public school.

(c) School boards and boards of education may adopt rules to carry out this subsection.

(2)(a) Through June 30, 2024, school boards and boards of education shall purchase and loan textbooks, upon individual request, to children who are enrolled in kindergarten to grade twelve of a private school which is approved for continued legal operation under rules and regulations established by the State Board of Education pursuant to subdivision (5)(c) of section 79-318. The Legislature may appropriate funds to carry out the provisions of this subdivision. A school district is not obligated to spend any money for the purchase and loan of textbooks to children enrolled in private schools other than funds specifically appropriated by the Legislature to be distributed by the State Department of Education for the purpose of purchasing and loaning textbooks as provided in this subdivision. Textbooks loaned to children enrolled in kindergarten to grade twelve of such private schools shall be textbooks which are designated for use in the public schools of the school district in which the child resides or the school district in which the private school the child attends is located. Such textbooks shall be loaned free to such children subject to such rules and regulations as are or may be prescribed by such school boards or boards of education. The State Department of Education shall adopt and promulgate rules and regulations to carry out this subdivision. The rules and regulations shall include provisions for the distribution of funds appropriated for textbooks. The rules and regulations shall include a deadline for applications from school districts for distribution of funds. If funds are not appropriated to cover the entire cost of applications, a pro rata reduction shall be made.

(b) Beginning on July 1, 2024, the State Department of Education shall purchase and loan textbooks, upon individual request, to children who are enrolled in kindergarten to grade twelve of a private school which is approved for continued legal operation under rules and regulations established by the State Board of Education pursuant to subdivision (5)(c) of section 79-318. The Legislature may appropriate funds to carry out this subdivision. The State Department of Education is not obligated to spend any money for the purchase and loan of textbooks to children enrolled in private schools other than funds specifically appropriated by the Legislature. The State Department of Education may utilize up to five percent of the appropriated funds to administer this subdivision. The State Department of Education may contract with a third-party vendor to assist in carrying out this subdivision. The State Board of Education may adopt and promulgate rules and regulations to carry out this subdivision. The rules and regulations shall include a formula or standard for determining a cost-per-child allocation of funding based on the Legislature's appropriation of funding. The rules and regulations shall allow a designated agent, which may include a private school, to assist the parents or guardians of a child in the request and acquisition of textbooks pursuant to this subdivision. It is the intent of the Legislature that on or before October 1, 2028, and every five years thereafter, the State Department of Education shall electronically provide to the Education Committee of the Legislature recommended changes to this subdivision that reflect advances in technology and educational content for students.

(3) For purposes of this section, textbook means any instructional material, including digital, electronic, or online resources, that is designated for use by an individual student in classroom instruction as the principal source of study material.

**Source:** Laws 1891, c. 46, § 1, p. 334; Laws 1903, c. 99, § 1, p. 570; R.S.1913, § 6914; C.S.1922, § 6498; C.S.1929, § 79-1801; R.S. 1943, § 79-1801; Laws 1947, c. 283, § 1, p. 891; Laws 1949, c. 256, § 156, p. 745; Laws 1971, LB 659, § 2; Laws 1973, LB 358, § 3; Laws 1983, LB 203, § 1; Laws 1986, LB 757, § 1; Laws 1995, LB 159, § 1; R.S.Supp.,1995, § 79-4,118; Laws 1996, LB 900, § 408; Laws 2016, LB1066, § 7; Laws 2023, LB705, § 80.

The loan of textbooks designated for use in public schools to private school students under this section is permissible under the Constitutions of Nebraska and the United States. The language of this section is not so vague that a school board will be required to guess at its meaning. Upon individual request means upon request of the student. This section does have a secular purpose: it provides all schoolchildren, public or private, with free textbooks designated for use in the public schools. Merely loaning secular textbooks to nonpublic school students, as pro-

vided in this section, will not require close supervision of nonpublic school teachers by government and will not foster an excessive government entanglement with religion. *Cunningham v. Lutjeharms*, 231 Neb. 756, 437 N.W.2d 806 (1989).

L.B. 659, Laws 1971, intended to provide financial assistance to nonpublic schools through the loan of secular textbooks, is unconstitutional. *Gaffney v. State Department of Education*, 192 Neb. 358, 220 N.W.2d 550 (1974).

#### **79-734.01 Textbook contracts; requirements for publisher or manufacturer.**

(1) On and after January 1, 2003, all contracts for the purchase of textbooks for school districts and educational service units shall require the publisher or manufacturer to provide to the school district or educational service unit, at no cost, (a) computer files or other electronic versions of each textbook title purchased and (b) the right to transcribe, reproduce, modify, and distribute each textbook title purchased in braille, large print if the publisher or manufacturer does not offer a large-print edition, or other specialized accessible media exclusively for use by students in the same school district or educational service unit who are blind or visually impaired.

(2) The contract shall also provide that: (a) Within thirty days after receiving a request from a school district or educational service unit, the publisher or manufacturer shall provide computer files or other electronic versions of each textbook title purchased to such school district or educational service unit; (b) the computer files or other electronic version shall maintain the structural integrity of the standard instructional materials, be compatible with commonly used braille translation and speech synthesis software, and include corrections and revisions as may be necessary; (c) if the technology is not available to convert a math, science, or other nonliterary textbook into the format prescribed in this section, the publisher or manufacturer shall not be required to provide computer files or other electronic versions of the textbook; and (d) upon the willful failure of the publisher or manufacturer to comply with the requirements of the contract pursuant to this section, the publisher or manufacturer shall reimburse the school district or educational service unit for the cost of creating such computer files or electronic versions.

**Source:** Laws 2002, LB 647, § 1.

**79-734.02 Projection maps; requirements for use; school board; adopt policy.**

(1) Except as provided in subsection (2) of this section, beginning in school year 2024-25, a public school shall not allow the use of a Mercator projection map in school. A public school shall only use the Gall-Peters projection map or a similar cylindrical equal-area projection map or the AuthaGraph projection map for display or use in the classroom.

(2) A Mercator projection map may be used in a classroom if such map is:

(a) Used in conjunction with other projection maps in a teaching exercise to demonstrate that all maps are flawed in some way and different map projections serve different functions and may affect how an individual views the world; or

(b)(i) Part of any (A) book or material obtained prior to July 19, 2024, (B) geographic information system, or (C) computer program that renders a three-dimensional representation of Earth based primarily on satellite imagery, such as Google Earth or similar software; and

(ii) A Gall-Peters projection map or a similar cylindrical equal-area projection map or an AuthaGraph projection map is displayed in the classroom or shown to students during the lesson in which a Mercator projection map is used.

(3) Nothing in this section shall be construed to require a school to dispose of or replace any book or material used in the classroom or obtained prior to July 19, 2024.

(4) The school board of each public school district shall adopt a policy to implement the requirements of this section.

**Source:** Laws 2024, LB1329, § 90.

Effective date July 19, 2024.

**79-735 School books, equipment, and supplies; payment.**

For the purpose of paying for school books, equipment, and supplies, the school district officers may draw an order on the district treasurer for the amount of school books, equipment, and supplies ordered.

**Source:** Laws 1891, c. 46, § 3, p. 335; R.S.1913, § 6916; C.S.1922, § 6500; C.S.1929, § 79-1803; R.S.1943, § 79-1803; Laws 1949, c.

256, § 157, p. 745; Laws 1971, LB 659, § 3; Laws 1972, LB 1219, § 2; Laws 1973, LB 358, § 4; Laws 1986, LB 757, § 2; R.S.1943, (1994), § 79-4,119; Laws 1996, LB 900, § 409.

L.B. 659, Laws 1971, intended to provide financial assistance to nonpublic schools through the loan of secular textbooks, is unconstitutional. *Gaffney v. State Department of Education*, 192 Neb. 358, 220 N.W.2d 550 (1974).

**79-736 School books; contracts with members of combination or trust; effect.**

Any contract entered into under the provisions of section 79-734 with any publisher who becomes a party to any combination or trust for the purpose of raising the price of school textbooks shall, at the option of the school board or board of education of the district using such books, become null and void.

**Source:** Laws 1891, c. 46, § 5, p. 335; R.S.1913, § 6918; C.S.1922, § 6502; C.S.1929, § 79-1805; R.S.1943, § 79-1805; Laws 1947, c. 283, § 2, p. 891; Laws 1949, c. 256, § 158, p. 745; R.S.1943, (1994), § 79-4,120; Laws 1996, LB 900, § 410.

**79-737 School books; ownership; care; liability of pupils for damage.**

All books purchased by a school board or board of education shall be the property of the district and loaned free of charge to pupils of the school while they are pursuing a course of study in the school, but the board shall hold such pupils responsible for any damage to, loss of, or failure to return such books at the time and to the person that may be designated by the board.

**Source:** Laws 1891, c. 46, § 9, p. 336; R.S.1913, § 6922; C.S.1922, § 6506; C.S.1929, § 79-1809; R.S.1943, § 79-1809; Laws 1949, c. 256, § 159, p. 745; R.S.1943, (1994), § 79-4,121; Laws 1996, LB 900, § 411.

(f) VOCATIONAL EDUCATION

**79-738 Repealed. Laws 2017, LB512, § 41.**

**79-739 Repealed. Laws 2017, LB512, § 41.**

**79-740 Repealed. Laws 2017, LB512, § 41.**

**79-741 Repealed. Laws 2017, LB512, § 41.**

**79-742 Repealed. Laws 2017, LB512, § 41.**

**79-743 Repealed. Laws 2017, LB512, § 41.**

**79-744 Repealed. Laws 2017, LB512, § 41.**

**79-745 Vocational educational needs; legislative findings.**

The Legislature finds that the schools in this state may best serve their students' vocational educational needs by participating in cooperative agreements with other school districts in order to share resources and programs. The Legislature further finds that recent technology, including computer developments, are expanding rapidly and students should be exposed at the elementary and secondary school levels to such technological advances in order to complete their education and prepare them for the future.

**Source:** Laws 1983, LB 207, § 1; R.S.1943, (1994), § 79-1435.01; Laws 1996, LB 900, § 419.

**79-746 Interdistrict school agreements; authorized.**

Any public school district in this state may enter into an agreement with any other public school district in this state to provide and share vocational educational programs, particularly programs involving recent technological developments such as electronics, computer science, and communications. The agreement's terms shall be approved by the school board or board of education of each school district participating in the agreement. The terms of the agreement shall include, but not be limited to, the method of sharing or hiring personnel, purchasing equipment and materials, and course curriculum.

The State Board of Education shall be apprised of all interdistrict school agreements at the time such agreements are executed.

**Source:** Laws 1983, LB 207, § 2; R.S.1943, (1994), § 79-1435.02; Laws 1996, LB 900, § 420; Laws 2017, LB512, § 10.

**79-747 Interdistrict school agreement; tax levy.**

In order to finance each school district's participation in the interdistrict school agreement pursuant to sections 79-745 to 79-747, a school district may levy a tax, in addition to any tax levy for general or other school purposes, not to exceed ten cents on each one hundred dollars upon the taxable value of all the taxable property in the district. The tax shall be levied, paid, and collected in the same manner as other school district taxes. Such additional tax levy shall be used only for payment by the school district of the costs it incurs as a result of its participation in the interdistrict agreement.

**Source:** Laws 1983, LB 207, § 3; Laws 1992, LB 719A, § 194; R.S.1943, (1994), § 79-1435.03; Laws 1996, LB 900, § 421.

**Cross References**

Joint school district or learning community tax levy, see section 79-1075.

**(g) SCHOOL RESTRUCTURING****79-748 Legislative findings and intent.**

(1) The Legislature finds and declares that:

(a) Global economic competition is making new demands upon the school system of the state;

(b) The competitiveness of the United States in the new global economy will require that schools effectively educate all students and prepare them to develop the capacity to learn new skills and tasks quickly and to apply this knowledge in creative and imaginative ways, in novel contexts, and in collaboration with others;

(c) The need to fundamentally restructure education to meet the challenges and opportunities of a constantly changing technological economy is recognized and endorsed by such diverse groups as the Committee for Economic Development, an organization of some eighty chief executive officers of American corporations, the Education Commission of the States, the National Education Association, the American Federation of Teachers, and the National Governors' Association; and

(d) The restructuring of the school system is a long-term, evolving process with the principal goal being to develop a system that ensures that all students learn to use their minds well as a result of their education.

(2) It is the intent of the Legislature to stimulate ideas and visions that go beyond the traditional models of schooling and to encourage the development of public-private partnerships in establishing and supporting reform in education.

**Source:** Laws 1990, LB 960, § 1; R.S.1943, (1994), § 79-4,225; Laws 1996, LB 900, § 422; Laws 1997, LB 347, § 21.

**79-749 Repealed. Laws 1997, LB 347, § 59.**

**79-750 Rule, regulation, or policy; waiver authorized.**

The State Board of Education may waive any rule or regulation of the State Department of Education and the board of education of each participating school may waive any school board policy which has been identified as a barrier in any school restructuring plan upon a showing that such rule, regulation, or policy will be a substantial impediment to success of the plan.

**Source:** Laws 1990, LB 960, § 3; R.S.1943, (1994), § 79-4,227; Laws 1996, LB 900, § 424.

(h) NEBRASKA SCHOOLS ACCOUNTABILITY COMMISSION

**79-751 Repealed. Laws 1997, LB 347, § 59.**

**79-752 Repealed. Laws 1997, LB 347, § 59.**

**79-753 Repealed. Laws 1997, LB 347, § 59.**

**79-754 Repealed. Laws 1997, LB 347, § 59.**

**79-755 Repealed. Laws 1997, LB 347, § 59.**

**79-756 Repealed. Laws 2013, LB 410, § 24.**

(i) QUALITY EDUCATION ACCOUNTABILITY ACT

**79-757 Act, how cited.**

Sections 79-757 to 79-762 shall be known and may be cited as the Quality Education Accountability Act.

**Source:** Laws 1998, LB 1228, § 1; Laws 2000, LB 812, § 1; Laws 2007, LB653, § 1; Laws 2011, LB637, § 25; Laws 2012, LB870, § 1; Laws 2014, LB438, § 1.

**79-758 Terms, defined.**

For purposes of the Quality Education Accountability Act:

(1) Assessment means the process of measuring student achievement and progress on state-adopted standards;

(2) Assessment instrument means a test aligned with state standards that is designed to measure student progress and achievement; and

(3) National assessment instrument means a nationally norm-referenced test developed and scored by a national testing service.

**Source:** Laws 2007, LB653, § 2; Laws 2008, LB1157, § 1.

**79-759 Standard college admission test; administered; expense.**

No later than the 2017-18 school year, the State Department of Education shall administer a standard college admission test, selected by the State Board of Education, to students in the eleventh grade attending a public school in the state in lieu of the assessment for the one grade in high school as required under section 79-760.03. The department shall pay the expenses of administering such college admission test.

**Source:** Laws 2011, LB637, § 26; Laws 2012, LB782, § 151; Laws 2014, LB967, § 7; Laws 2016, LB930, § 2; Laws 2021, LB528, § 28.

**79-760 Repealed. Laws 2012, LB 870, § 7.****79-760.01 Academic content standards; State Board of Education; duties.**

(1) The State Board of Education shall adopt measurable academic content standards for at least the grade levels required for statewide assessment pursuant to section 79-760.03. The standards shall cover the subject areas of reading, writing, mathematics, science, and social studies.

(2)(a) The board shall also adopt measurable academic content standards for the following as part of the social studies standards:

(i) Financial literacy; and

(ii) Education on the Holocaust and other acts of genocide as recognized by the Congress of the United States or the United Nations as of January 1, 2022.

(b) On or before March 1, 2024, the board shall also adopt measurable academic content standards for computer science and technology education under the mathematics, science, or career and technical education standards.

(3) Academic content standards adopted or recommended pursuant to this section shall be sufficiently clear and measurable to be used for testing student performance with respect to mastery of the content described in the state standards.

(4) The State Board of Education shall develop a plan to review and update standards for each subject area every seven years. The state board plan shall include a review of commonly accepted standards adopted by school districts.

**Source:** Laws 2000, LB 812, § 2; Laws 2007, LB653, § 5; Laws 2008, LB1157, § 2; Laws 2015, LB525, § 11; Laws 2021, LB452, § 6; Laws 2022, LB888, § 1; Laws 2022, LB1112, § 7; Laws 2023, LB705, § 81.

## Cross References

Financial Literacy Act, see section 79-3001.

**79-760.02 Academic content standards; school districts; duties.**

In accordance with timelines that are adopted by the State Board of Education, but in no event later than one year following the adoption or modification of state standards, each school district shall adopt measurable quality academic content standards in the subject areas of reading, writing, mathematics, science, and social studies. The standards may be the same as, or may be equal to or exceed in rigor, the measurable academic content standards adopted by the state board and shall cover at least the same grade levels. School districts may work collaboratively with educational service units, with

learning communities, or through interlocal agreements to develop such standards.

**Source:** Laws 2000, LB 812, § 3; Laws 2007, LB653, § 6; Laws 2008, LB1157, § 3; Laws 2015, LB525, § 12.

**79-760.03 Statewide assessment and reporting system for school year 2009-10 and subsequent years; State Board of Education; duties; technical advisory committee; terms; expenses.**

(1) For school year 2009-10 and each school year thereafter, the State Board of Education shall implement a statewide system for the assessment of student learning and for reporting the performance of school districts and learning communities pursuant to this section. The assessment and reporting system shall measure student knowledge of subject matter materials covered by measurable academic content standards selected by the state board.

(2) The state board shall adopt a plan for an assessment and reporting system and implement and maintain the assessment and reporting system according to such plan. The plan shall be submitted annually to the State Department of Education, the Governor, the chairperson of the Education Committee of the Legislature, and the Clerk of the Legislature. The plan submitted to the committee and the Clerk of the Legislature shall be submitted electronically. The state board shall select grade levels for assessment and reporting required pursuant to subsections (4) through (7) of this section. The purposes of the system are to:

- (a) Determine how well public schools are performing in terms of achievement of public school students related to the state academic content standards;
- (b) Report the performance of public schools based upon the results of state assessment instruments and national assessment instruments;
- (c) Provide information for the public and policymakers on the performance of public schools; and
- (d) Provide for the comparison among Nebraska public schools and the comparison of Nebraska public schools to public schools elsewhere.

(3) The Governor shall appoint a technical advisory committee to review (a) the statewide assessment plan, (b) state assessment instruments, and (c) the accountability system developed under the Quality Education Accountability Act. The technical advisory committee shall consist of three nationally recognized experts in educational assessment and measurement, one administrator from a school in Nebraska, and one teacher from a school in Nebraska. The members shall serve terms of three years, except that two of the members shall be appointed for initial terms of two years. Any vacancy shall be filled by the Governor for the remainder of the term. One of the members shall be designated as chairperson by the Governor. Members shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177. The committee shall advise the Governor, the state board, and the State Department of Education on the development of statewide assessment instruments and the statewide assessment plan. The appointments to the committee shall be confirmed by the Legislature.

(4) Through school year 2016-17, the state board shall prescribe a statewide assessment of writing that relies on writing samples in each of three grades selected by the state board. Each year at least one of the three selected grades



shall participate in the statewide writing assessment with each selected grade level participating at least once every three years.

(5) For school year 2009-10 and for each school year thereafter, the state board shall prescribe a statewide assessment of reading. The statewide assessment of reading shall include assessment instruments for each of the grade levels three through eight and for one grade in high school and standards adopted by the state board pursuant to section 79-760.01. For school year 2017-18 and each school year thereafter, the statewide assessment of reading shall include a component of writing as determined by the state board.

(6) For no later than school year 2010-11 and for each school year thereafter, the state board shall prescribe a statewide assessment of mathematics. The statewide assessment of mathematics shall include assessment instruments for each of the grade levels three through eight and for one grade in high school and standards adopted by the state board pursuant to section 79-760.01.

(7) For no later than school year 2011-12 and each school year thereafter, the state board shall prescribe a statewide assessment of science. The statewide assessment of science shall include assessment instruments for each of the grade levels selected by the state board and standards adopted by the state board pursuant to section 79-760.01. The grade levels shall include at least one grade in elementary school, one grade in middle school or junior high school, and one grade in high school.

(8) The department shall conduct studies to verify the technical quality of assessment instruments and demonstrate the comparability of assessment instrument results required by the act. The department shall annually report such findings to the Governor, the Legislature, and the state board. The report submitted to the Legislature shall be submitted electronically.

(9) The state board shall recommend national assessment instruments for the purpose of national comparison. Beginning with school year 2017-18, the state board shall select a national assessment instrument that is also used as a standard college admission test which shall be administered to students in the eleventh grade in every public high school in each school district. Each school district shall report individual student data for scores and sub-scores according to procedures established by the state board and the department pursuant to section 79-760.05.

(10) The aggregate results of assessment instruments and national assessment instruments shall be reported by the district on a building basis to the public in that district, to the learning community coordinating council if such district is a member of a learning community, and to the department. Each learning community shall also report the aggregate results of any assessment instruments and national assessment instruments to the public in that learning community and to the department. The department shall report the aggregate results of any assessment instruments and national assessment instruments on a learning community, district, and building basis as part of the statewide assessment and reporting system.

(11)(a) The assessment and reporting plan shall:

- (i) Provide for the confidentiality of the results of individual students; and
- (ii) Include all public schools and all public school students.

(b) The state board shall adopt criteria for the inclusion of students with disabilities, students entering the school for the first time, and students with limited English proficiency.

The department may determine appropriate accommodations for the assessment of students with disabilities or any student receiving special education programs and services pursuant to section 79-1139. Alternate academic achievement standards in reading, mathematics, and science and alternate assessment instruments aligned with the standards may be among the accommodations for students with severe cognitive disabilities.

(12) The state board may select additional grade levels, subject areas, or assessment instruments for statewide assessment consistent with federal requirements.

(13) The state board shall not require school districts to administer assessments or assessment instruments which are not consistent with the act.

(14) The state board may appoint committees of teachers, from each appropriate subject area, and administrators to assist in the development of statewide assessment instruments required by the act.

**Source:** Laws 2007, LB653, § 4; Laws 2008, LB1157, § 4; Laws 2012, LB782, § 152; Laws 2016, LB930, § 3; Laws 2016, LB1066, § 8; Laws 2020, LB381, § 89.

**79-760.04 Repealed. Laws 2012, LB 870, § 7.**

**79-760.05 Student achievement; student discipline; statewide systems for tracking individual students; State Board of Education; duties; school districts; schools; provide data; analysis and reports.**

(1) The State Board of Education shall implement a statewide system for tracking individual student achievement, using the student identifier system of the State Department of Education, that can be aggregated to track student progress by demographic characteristics, including, but not limited to, race, poverty, high mobility, attendance, and limited English proficiency, on available measures of student achievement which include, but need not be limited to, national assessment instruments, state assessment instruments, and the indicators used in the accountability system required pursuant to section 79-760.06. Such a system shall be designed so as to aggregate student data by available educational input characteristics, which may include class size, teacher education, teacher experience, special education, early childhood programs, federal programs, and other targeted education programs. School districts shall provide the department with individual student achievement data from assessment instruments required pursuant to section 79-760.03 in order to implement the statewide system.

(2)(a) On or before August 1, 2022, the state board shall also implement a statewide system for tracking individual student discipline, using the student identifier system of the department, that can be aggregated to track student discipline by type of discipline and demographic characteristics, including, but not limited to, race, poverty, high mobility, attendance, disability, and limited English proficiency. The state board shall cause each school district to report, by individual student, any:

(i) Act resulting in an in-school suspension, a short-term suspension, a long-term suspension, a one-semester expulsion, a two-semester expulsion, an as-

signment to an alternative school or alternative-learning program, the use of physical intervention with such student, or the restraint or seclusion of such student;

(ii) Offense constituting grounds for a long-term suspension, an expulsion, or a mandatory reassignment pursuant to section 79-267, regardless of consequences assigned; and

(iii) Act resulting in law enforcement involvement, including any incident reported to law enforcement or to an onsite school resource officer, and any school-related citation or arrest.

(b) For purposes of this subsection, school-related citation or arrest shall include a citation or arrest of a student for any activity conducted on school grounds; in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by such employee's designee; or at a school-sponsored activity or athletic event.

(c) The system for tracking individual student discipline may also be used to record other disciplinary incidents.

(d) Each school shall designate at least one discipline data coordinator for the purposes of gathering and reporting the discipline data required pursuant to this subsection.

(3) The department shall annually analyze and report on student achievement and on student discipline for the state, each school district, each public school, and each learning community aggregated by the demographic characteristics described in subsection (1) of this section. The department shall report the findings to the Governor, the Legislature, school districts, educational service units, and each learning community. The report submitted to the Legislature shall be submitted electronically. Such analysis shall include aggregated data that would indicate differences in achievement and differences in student discipline due to available educational input characteristics described in subsection (1) of this section. Such analysis shall include indicators of progress toward state achievement goals for students in poverty, limited English proficient students, students with disabilities, and highly mobile students.

**Source:** Laws 2007, LB653, § 8; Laws 2008, LB1157, § 5; Laws 2011, LB333, § 5; Laws 2012, LB782, § 153; Laws 2012, LB870, § 3; Laws 2021, LB154, § 1.

**79-760.06 Accountability system; combine multiple indicators; State Department of Education; powers; duties; designation of priority schools.**

(1) The State Board of Education shall establish an accountability system to be used to measure the performance of individual public schools and school districts. The accountability system shall combine multiple indicators, including, but not limited to, graduation rates, student growth and student improvement on the assessment instruments provided in section 79-760.03, student discipline, and other indicators of the performance of public schools and school districts as established by the state board.

(2) The indicators selected by the state board for the accountability system shall be combined annually into a school performance score and district performance score. The state board shall establish levels of performance based upon school performance scores and district performance scores in order to

annually classify and report the performance of public schools and school districts beginning with the reporting of data from school year 2014-15. The department shall classify and report the performance of public schools and school districts annually on or before December 31 of each calendar year.

(3) The state board shall designate priority schools based on such classification. Schools designated as priority schools shall be at the lowest performance level at the time of the initial priority school designation. Schools designated as priority schools shall remain priority schools until such designation is removed by the state board. No less than three schools may have a priority school designation at one time. Schools designated as priority schools shall be subject to the requirements of section 79-760.07. The State Department of Education shall annually report the performance level of individual public schools and school districts as part of the statewide assessment and reporting system.

**Source:** Laws 2012, LB870, § 2; Laws 2014, LB438, § 2; Laws 2015, LB525, § 13; Laws 2018, LB1081, § 8; Laws 2018, LB1110, § 1; Laws 2021, LB154, § 2.

**79-760.07 Priority school; intervention team; members; duties; expenses; develop progress plan; contents; compliance required; review; school board; duties; Commissioner of Education; report; contents.**

(1) For each school designated as a priority school, the Commissioner of Education shall appoint an intervention team. The intervention team shall assist the school district with diagnosing issues that negatively affect student achievement in the priority school, designing and implementing strategies to address such issues through the progress plan, and developing measurable indicators of progress.

(2) The intervention team shall be composed of up to five people with the education and experience to carry out the responsibilities of the team. Any member of the intervention team may receive pay for work performed in conjunction with his or her duties as a member of such team. Such pay shall be determined and provided (a) by the State Department of Education for any member of the intervention team who is not an employee of the school district containing the priority school for which such intervention team is appointed or (b) by the school district containing the priority school for which the intervention team is appointed for any member of the intervention team who is an employee of such school district. Any member of the intervention team who is eligible to receive pay from the department pursuant to subdivision (a) of this subsection shall also be eligible for reimbursement of expenses incurred in carrying out his or her duties as a member of such team as provided in sections 81-1174 to 81-1177. Reimbursement of expenses for any member of the intervention team who is an employee of the school district containing the priority school for which the intervention team is appointed shall be provided in accordance with the policies and procedures of such school district.

(3) The intervention team, in collaboration with the priority school staff and the administration and school board of the school district with control of the priority school, shall develop a progress plan for approval by the State Board of Education. Any progress plan shall include specific actions required by the school and the district in order to remove its classification as a priority school, including any required level of progress as indicated by the measurable indicators.

(4) Compliance with progress plans shall be a requirement to maintain accreditation for any school district that contains a priority school. The state board shall annually review any progress plans and determine whether any modifications are needed. If a school has been designated as a priority school for the third consecutive school year, the state board shall reevaluate the progress plan to determine if (a) a significant revision of the progress plan is necessary, (b) an entirely new progress plan is developed, or (c) an alternative administrative structure is warranted.

(5) The school board of a school district containing a priority school as designated pursuant to section 79-760.06 shall provide the intervention team with full access to the priority school, priority school staff, the school district, school district staff, academic information, financial information, and any other requested information.

(6) The Commissioner of Education shall annually report to the Governor and electronically to the Clerk of the Legislature and the chairperson of the Education Committee of the Legislature on all schools designated as priority schools. The report shall include the name of the school, the grades included in the priority school designation, the name of the school district, the years for which the school was designated a priority school, a summary of the progress plan, and the level of progress as indicated by the measurable indicators.

**Source:** Laws 2014, LB438, § 3; Laws 2018, LB1081, § 9; Laws 2020, LB381, § 90.

#### **79-761 Mentor teacher programs; State Board of Education; duties.**

The State Board of Education shall develop guidelines for mentor teacher programs in local systems in order to provide ongoing support for individuals entering the teaching profession. Mentor teachers shall not participate in the formal evaluation of beginning teachers which shall be the responsibility of school administrators. Local systems shall identify criteria for selecting excellent, experienced, and qualified teachers to be participants in the local system mentor teacher program which are consistent with the guidelines developed by the State Board of Education.

**Source:** Laws 1998, LB 1228, § 5; Laws 2006, LB 1208, § 3; Laws 2015, LB525, § 14.

#### **79-762 Rules and regulations.**

The State Board of Education shall adopt and promulgate rules and regulations to carry out the Quality Education Accountability Act.

**Source:** Laws 1998, LB 1228, § 6.

#### **(j) CAREER EDUCATION PARTNERSHIP ACT**

**79-763 Repealed. Laws 2009, LB 476, § 6.**

**79-764 Repealed. Laws 2009, LB 476, § 6.**

**79-765 Repealed. Laws 2009, LB 476, § 6.**

**79-766 Repealed. Laws 2009, LB 476, § 6.**

**79-767 Repealed. Laws 2009, LB 476, § 6.**

**79-768 Repealed. Laws 2009, LB 476, § 6.**

## (k) LEARNING COMMUNITY FOCUS SCHOOL OR PROGRAM

**79-769 Focus programs; focus schools; magnet schools; authorized; requirements.**

(1) Any one or more member school districts of a learning community may establish one or more focus programs, focus schools, or magnet schools. If included as part of the diversity plan of a learning community, the focus school or focus program shall be eligible for a focus school and program allowance pursuant to section 79-1007.05.

(2) Focus schools, focus programs, and magnet schools may be included in pathways across member school districts pursuant to the diversity plan developed by the learning community coordinating council pursuant to section 79-2104.

(3) If multiple member school districts collaborate on a focus program, focus school, or magnet school, the school districts shall form a joint entity pursuant to the Interlocal Cooperation Act for the purpose of creating, implementing, and operating such focus program, focus school, or magnet school. The agreement creating such joint entity shall address legal, financial, and academic responsibilities and the assignment to participating school districts of students enrolled in such focus program, focus school, or magnet school who reside in nonparticipating school districts.

(4) For purposes of this section:

(a) Focus program means a program that does not have an attendance area, whose enrollment is designed so that the socioeconomic diversity of the students attending the focus program reflects as nearly as possible the socioeconomic diversity of the student body of the learning community, which has a unique curriculum with specific learning goals or teaching techniques different from the standard curriculum, which may be housed in a building with other public school programs, and which may consist of either the complete education program for participating students or part of the education program for participating students;

(b) Focus school means a school that does not have an attendance area, whose enrollment is designed so that the socioeconomic diversity of the students attending the focus school reflects as nearly as possible the socioeconomic diversity of the student body of the learning community, which has a unique curriculum with specific learning goals or teaching techniques different from the standard curriculum, and which is housed in a building that does not contain another public school program;

(c) Magnet school means a school having a home attendance area but which reserves a portion of its capacity specifically for students from outside the attendance area who will contribute to the socioeconomic diversity of the student body of such school and which has a unique curriculum with specific learning goals or teaching techniques different from the standard curriculum; and

(d) Pathway means elementary, middle, and high school focus programs, focus schools, and magnet schools with coordinated curricula based on specific learning goals or teaching techniques.

**Source:** Laws 2006, LB 1024, § 57; Laws 2007, LB641, § 11; Laws 2008, LB1154, § 9; Laws 2011, LB558, § 1.

## Cross References

Interlocal Cooperation Act, see section 13-801.

## (l) CERTIFICATE OF ATTENDANCE

**79-770 Certificate of attendance; participation in high school graduation ceremony.**

At the request of a parent or guardian, a school district shall issue a certificate of attendance to a student who receives special education services under the Special Education Act, who has reached seventeen years of age, and who has not completed his or her individualized education plan. A school district shall allow a student who receives a certificate of attendance under this section to participate in the high school graduation ceremony of such high school with students receiving high school diplomas. A student may receive only one certificate of attendance and may participate in only one graduation ceremony based on such certificate. The receipt of a certificate of attendance pursuant to this section shall not affect a school district's obligation to continue to provide special education services to a student receiving such certificate.

This section does not preclude a student from receiving a high school diploma by meeting the school district's graduation requirements established pursuant to section 79-729 or in his or her individualized education plan or receiving a diploma of high school equivalency under section 79-730 upon completing the requirements of such section. The school district may allow a student who has previously participated in a graduation ceremony based on a certificate of attendance to participate in an additional graduation ceremony when such student receives a high school diploma.

**Source:** Laws 2008, LB1153, § 1.

## Cross References

Special Education Act, see section 79-1110.

## (m) NEBRASKA COMMUNITY COLLEGE DEGREE

**79-771 Nebraska community college degrees; how treated.**

For purposes of financial aid relating to postsecondary education and admission to postsecondary educational institutions, a student shall be deemed a high school graduate if he or she has obtained an associate of arts degree or an associate of science degree from a community college in Nebraska.

**Source:** Laws 2009, LB102, § 1.

(n) CENTER FOR STUDENT LEADERSHIP  
AND EXPANDED LEARNING ACT**79-772 Act, how cited.**

Sections 79-772 to 79-775 shall be known and may be cited as the Center for Student Leadership and Expanded Learning Act.

**Source:** Laws 2009, LB476, § 1; Laws 2016, LB1066, § 9.

**79-773 Legislative findings.**

(1) The Legislature finds that:

(a) Since 1928, Nebraska students have benefited from participation in career education student organizations;

(b) Research conducted in 2007 by the National Research Center for Career and Technical Education has documented a positive association between career education student organizations participation and academic motivation, academic engagement, grades, career self-efficacy, college aspirations, and employability skills;

(c) Long-term sustainability of the state associations of career education student organizations has a positive impact on Nebraska students and is in the best interests of the economic well-being of the State of Nebraska;

(d) Students in Nebraska schools should have opportunities to acquire academic, technical, and employability knowledge and skills needed to meet the demands of a global economy;

(e) Students benefit from the opportunities provided by career education student organizations to develop and demonstrate leadership skills that prepare them for civic, economic, and entrepreneurial leadership roles;

(f) Students benefit from engaging in expanded-learning experiences outside their normal classrooms that allow them to apply their knowledge and skill in authentic situations;

(g) There is a need to establish and expand strategies and programs that enable young people to be college-ready and career-ready, build assets, and remain as productive citizens in their communities; and

(h) There is a need to establish a statewide structure that supports existing and emerging curriculum and program offerings with student leadership development opportunities and experiences.

(2) The Legislature recognizes that Nebraska must provide opportunities to educate young people with leadership and employability skills to (a) meet the needs of business and industry and remain economically viable, (b) educate and nurture future entrepreneurs for successful business ventures to diversify and strengthen our economic base, (c) foster rewarding personal development experiences that involve students in their communities and encourage them to return to their communities after completing postsecondary education, and (d) invest in and support the leadership development of our future state and community civic leaders.

**Source:** Laws 2009, LB476, § 2; Laws 2016, LB1066, § 10.

**79-774 Terms, defined.**

For purposes of the Center for Student Leadership and Expanded Learning Act:

(1) Career and technical education means educational programs that support the development of knowledge and skill in the following areas: Agriculture, food, and natural resources; architecture and construction; arts, audiovisual, technology, and communication; business management and administration; education and training; finance; government and public administration; health science; hospitality and tourism; human services; information technology; law, public safety, and security; marketing; manufacturing; science, technology, engineering, and mathematics; and transportation, distribution, and logistics;



(2) Career education student organization means an organization for individuals enrolled in a career and technical education program that engages career and technical education activities as an integral part of the instructional program; and

(3) Expanded learning means school-based or school-linked activities and programs that utilize school-community partnerships to expand opportunities for students to participate in educational activities outside the normal classroom.

**Source:** Laws 2009, LB476, § 3; Laws 2016, LB1066, § 11.

**79-775 Purpose of act; Center for Student Leadership and Expanded Learning; duties.**

The purpose of the Center for Student Leadership and Expanded Learning Act is to provide state support for establishing and maintaining within the State Department of Education the Center for Student Leadership and Expanded Learning. The center shall provide ongoing financial and administrative support for state leadership and administration of Nebraska career education student organizations, create and coordinate opportunities for students to participate in educational activities outside the normal classroom, and partner with state and local organizations to share research and identify best practices that can be disseminated to schools and community organizations.

**Source:** Laws 2009, LB476, § 4; Laws 2016, LB1066, § 12.

(o) POLICY TO SHARE STUDENT DATA

**79-776 State Board of Education; policy to share student data; duties.**

The State Board of Education shall enter into memoranda of understanding on or before September 1, 2010, with the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, and the board of governors of each community college area to adopt a policy to share student data. At a minimum, the policy shall ensure that the exchange of information is conducted in conformance with the requirements of the federal Family Educational Rights and Privacy Act of 1974, as amended, 20 U.S.C. 1232g, and all federal regulations and applicable guidelines adopted in accordance with such act, as such act, regulations, and guidelines existed on January 1, 2010.

**Source:** Laws 2010, LB1071, § 7.

(p) CAREER ACADEMY

**79-777 Career academy; establishment and operation; duties; funding; department; define standards and criteria.**

(1) Any school district, with the approval of the State Department of Education, may establish and operate a career academy. The purpose of a career academy is to provide students with a career-based educational curriculum. A school district may partner with another school district, an educational service unit, a learning community, a postsecondary educational institution, or a private entity in the establishment and operation of a career academy.

(2) A career academy established pursuant to subsection (1) of this section shall:

(a) Recruit students who seek a career-based curriculum, which curriculum shall be based on criteria determined by the department;

(b) Recruit and hire instructors based on their expertise in career-based education; and

(c) Provide a rigorous academic curriculum with a transition component to prepare students for the workforce, including, but not limited to, internships, job training, and skills training.

(3) In addition to funding from the establishing school district or any of the district’s partners, a career academy may also receive private donations for operating expenses.

(4) The department shall define standards and criteria for (a) the establishment, evaluation, and continuing approval of career academies, (b) career-based curriculum utilized by career academies, (c) the necessary data elements and collection of data pertaining to career academies, including, but not limited to, the number of students enrolled in a career academy and their grade levels, and (d) the establishment of advisory boards consisting of business and education representatives to provide guidance and direction for the operation of career academies.

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

**Source:** Laws 2012, LB870, § 4.

**ARTICLE 8**

**TEACHERS AND ADMINISTRATORS**

**Cross References**

**Private, denominational, or parochial schools which elect not to meet accreditation or approval requirements**, persons who monitor instruction, see section 79-1601.

**State lottery funds for education**, allocations for the Excellence in Teaching Act, see section 79-3501.

**Teachers’ institutes and conferences**, Commissioner of Education, duties, see section 79-308.

(a) CERTIFICATES

Section	
79-801.	Nebraska certificate to administer; required of administrators and supervisors.
79-802.	Nebraska certificate or permit; prerequisite to teaching; employment of teacher aides; requirements.
79-802.01.	American Indian language teacher; requirements.
79-803.	Certificate; extension; service in armed forces; conditions.
79-804.	Teacher’s or administrator’s certificate; registration required; failure; effect.
79-805.	Teachers or administrators without certificates; employment prohibited; effect.
79-806.	Legislative findings; purpose of sections.
79-807.	Terms, defined.
79-808.	Teachers and administrators; certificates and permits; requirements; board; duties; advisory committees; expenses.
79-809.	Teachers’ entry-level certificates or permits; qualifications.
79-810.	Certificates or permits; issuance by Commissioner of Education; fee; disposition; contents of certificate or permit; endorsements; Certification Fund; created; use; investment.
79-811.	Teachers’ and administrators’ certificates or permits; college credits submitted; certification; certification or permit in another state; how treated.
79-812.	Repealed. Laws 2003, LB 685, § 37.

## TEACHERS AND ADMINISTRATORS

- Section  
79-813. Teachers' and administrators' certificates or permits; military spouses; applicants by reciprocity; requirements.
- 79-814. Teachers' and administrators' certificates or permits; limitations on use.
- 79-814.01. Criminal history record information search; denial of certificate or permit; when; costs; confidentiality.
- 79-814.02. Conditional permit; when.
- 79-815. Certificate; continuance in force; conversion privileges.
- 79-816. Nebraska Teacher Apprenticeship Program; certificate or permit to teach; eligibility; requirements for completion; State Department of Education; Commissioner of Education; duties.
- 79-816.01. Interstate Teacher Mobility Compact; rules and regulations.

### (b) EMPLOYMENT CONTRACTS

- 79-817. Schools; contract of employment; writing required.
- 79-818. School board; employment of teachers and administrators; contracts; how executed; prohibitions.
- 79-819. Schools; contract of employment; contents.
- 79-820. Schools; contract with employees of another district, prohibited; penalty.
- 79-821. Schools; violation of contract; notice; suspension of certificate.
- 79-822. Administrators; employment; salary; contract; term.
- 79-823. Repealed. Laws 1997, LB 347, § 59.

### (c) TENURE

- 79-824. Terms, defined.
- 79-825. Part-time certificated employee; become permanent employee; formula; reduction in force; effect.
- 79-826. Certificated employee; disciplinary action; superintendent; powers; procedures.
- 79-827. Certificated employee; contract cancellation or amendment; reasons; procedures.
- 79-828. Probationary certificated employee; probationary period; evaluation; contract amendment or nonrenewal; procedure.
- 79-829. Permanent certificated employee; contract amendment or termination; reasons.
- 79-830. Permanent certificated employee; evidence of professional growth required.
- 79-831. Certificated employee; contract amendment, termination, nonrenewal, or cancellation; notice; hearing.
- 79-832. Formal due process hearing; employee's rights; how conducted; school board decision.
- 79-833. Error proceedings; jurisdiction of court.
- 79-834. Informal hearing; when held; procedures.
- 79-835. Probationary certificated employee; superintendent; school board; special procedures applicable.
- 79-836. School board; additional sanctions authorized; when.
- 79-837. School board; subpoena power.
- 79-838. School board; grant leave of absence; procedures; rights.
- 79-839. Certificated employees; assignment rights.
- 79-840. Class IV or Class V school district; hearing officer; use authorized.
- 79-841. Class IV or V school district; hearing officer; selection.
- 79-842. Class IV or V school district; hearing officer; procedure; costs.
- 79-843. Teachers and school nurses; contract; renewal; exceptions; amend or terminate; notice; hearings; decision.
- 79-844. Teachers and school nurses; contract; minimum standard.
- 79-845. Department of Correctional Services; Department of Health and Human Services; contract with teaching staff; probationary period.

### (d) REDUCTION IN FORCE

- 79-846. Reduction-in-force policy; adopt; requirements.
- 79-847. Reduction in force; board of education and school district administration; duties.

## SCHOOLS

- Section  
79-848. Reduction in force; employee; contract terminated; effect; recall; rights.  
79-849. Reduction in force; noncompliance with federal or state law; how treated.
- (e) UNIFIED SYSTEM OR REORGANIZED SCHOOL DISTRICTS
- 79-850. Terms, defined.  
79-851. Teachers; status rights.  
79-852. Collective-bargaining agreement; continued; effect.  
79-853. City of second class or village; merger with city of primary or metropolitan class; rights of teachers and employees preserved.  
79-854. Reduction in force; Retirement Incentive Plan; Staff Development Assistance; continued employment; notification; limitation.  
79-855. Retirement Incentive Plan; eligibility; benefit; costs; allocation.  
79-856. Staff Development Assistance; eligibility; agreement; contents; costs; allocation.  
79-857. Allocation of certificated employees; procedure.  
79-858. Other agreements; responsibility.
- (f) STANDARDS OF PROFESSIONAL PRACTICES
- 79-859. Professional practices; teachers and administrators; legislative declaration.  
79-860. Professional practices; terms, defined.  
79-861. Repealed. Laws 2024, LB1306, § 8.  
79-862. Repealed. Laws 2024, LB1306, § 8.  
79-863. Repealed. Laws 2024, LB1306, § 8.  
79-864. Repealed. Laws 2024, LB1306, § 8.  
79-865. Repealed. Laws 2024, LB1306, § 8.  
79-866. Professional practices; standards; teacher's or administrator's certificate; revocation or suspension; grounds; procedure.  
79-867. Teacher's or administrator's certificate; revocation; suspension; effect.  
79-868. Teacher's or administrator's certificate; standards violation; investigations; procedure.  
79-869. Repealed. Laws 2024, LB1306, § 8.  
79-870. Teacher's or administrator's certificate; standards violation; witnesses; subpoena; commissioner; issue writs of subpoena; board; modify or quash.  
79-871. Repealed. Laws 2024, LB1306, § 8.
- (g) PROFESSIONAL OR LABOR ORGANIZATIONS
- 79-872. Teacher or administrator; professional or labor organization; deduction from wages.  
79-873. Deduction from wages; authorization; form.  
79-874. Deductions; school district; liability.
- (h) STUDENT TEACHER OR INTERN
- 79-875. Student teacher or intern, defined.  
79-876. Student teacher or intern; protection; rules and regulations; comply.  
79-877. Student teacher or intern; responsibilities and duties.  
79-878. Student teacher or intern; terms, defined.
- (i) APPROPRIATE RELATIONSHIPS WITH STUDENTS
- 79-879. Policy regarding appropriate relationships with students; contents.
- (j) HELP EDUCATION LEAD TO PROSPERITY ACT
- 79-880. Repealed. Laws 1996, LB 700, § 18.  
79-881. Repealed. Laws 1996, LB 700, § 18.  
79-882. Repealed. Laws 1996, LB 700, § 18.  
79-883. Repealed. Laws 1996, LB 700, § 18.  
79-884. Repealed. Laws 1996, LB 700, § 18.  
79-885. Repealed. Laws 1996, LB 700, § 18.  
79-886. Repealed. Laws 1996, LB 700, § 18.  
79-887. Repealed. Laws 1996, LB 700, § 18.  
79-888. Repealed. Laws 1996, LB 700, § 18.

## TEACHERS AND ADMINISTRATORS

### Section

- 79-889. Repealed. Laws 1996, LB 700, § 18.
- 79-890. Repealed. Laws 1996, LB 700, § 18.
- 79-891. Repealed. Laws 1996, LB 700, § 18.
- 79-892. Repealed. Laws 1996, LB 700, § 18.

#### (k) INTERSTATE AGREEMENT ON QUALIFICATION OF EDUCATIONAL PERSONNEL

- 79-893. Repealed. Laws 2003, LB 685, § 37.
- 79-894. Repealed. Laws 2003, LB 685, § 37.
- 79-895. Repealed. Laws 2003, LB 685, § 37.

#### (l) MISCELLANEOUS

- 79-896. Teachers; applicants; inquiries concerning religious affiliation prohibited.
- 79-897. Teachers; inquiries concerning religious affiliation; violations; penalty.
- 79-898. Repealed. Laws 2017, LB62, § 1.
- 79-899. Repealed. Laws 2017, LB62, § 1.
- 79-8,100. Teachers; solicitation by agents or salespersons prohibited; exceptions.
- 79-8,101. Teachers; solicitation by agents or salespersons; violation; penalty.
- 79-8,102. Repealed. Laws 2001, LB 797, § 55.
- 79-8,103. Repealed. Laws 2001, LB 797, § 55.
- 79-8,104. Repealed. Laws 2001, LB 797, § 55.
- 79-8,105. Repealed. Laws 2001, LB 797, § 55.
- 79-8,106. Epidemics; teachers' salaries; duty to pay; injury leave; workers' compensation benefits; requirements.
- 79-8,107. Teachers; lunch period; exception.
- 79-8,108. Teachers and employees; pledge; form.
- 79-8,109. Teacher, administrator, or full-time employee; personnel file; access; written response; attach.
- 79-8,110. Repealed. Laws 2018, LB377, § 87.

#### (m) NEBRASKA TEACHER RECRUITMENT AND RETENTION ACT

- 79-8,111. Nebraska Teacher Recruitment and Retention Act, how cited.
- 79-8,112. Purpose of act.
- 79-8,113. Terms, defined.
- 79-8,114. Grants; eligibility.
- 79-8,115. Legislative intent.
- 79-8,116. Appropriation; legislative intent.
- 79-8,117. Rules and regulations.
- 79-8,118. Act, termination.

#### (n) TEACHER SALARY TASK FORCE

- 79-8,119. Repealed. Laws 2003, LB 1, § 1; Laws 2003, LB 67, § 34.
- 79-8,120. Repealed. Laws 2003, LB 1, § 1; Laws 2003, LB 67, § 34.
- 79-8,121. Repealed. Laws 2003, LB 1, § 1; Laws 2003, LB 67, § 34.
- 79-8,122. Repealed. Laws 2003, LB 1, § 1; Laws 2003, LB 67, § 34.
- 79-8,123. Repealed. Laws 2003, LB 1, § 1; Laws 2003, LB 67, § 34.

#### (o) MASTER TEACHER PROGRAM ACT

- 79-8,124. Repealed. Laws 2023, LB705, § 135.
- 79-8,125. Repealed. Laws 2023, LB705, § 135.
- 79-8,126. Repealed. Laws 2023, LB705, § 135.
- 79-8,127. Repealed. Laws 2023, LB705, § 135.
- 79-8,128. Repealed. Laws 2023, LB705, § 135.
- 79-8,129. Repealed. Laws 2023, LB705, § 135.
- 79-8,130. Repealed. Laws 2023, LB705, § 135.
- 79-8,131. Repealed. Laws 2023, LB705, § 135.

#### (p) EXCELLENCE IN TEACHING ACT

- 79-8,132. Transferred to section 85-3101.
- 79-8,133. Transferred to section 85-3103.
- 79-8,134. Transferred to section 85-3104.
- 79-8,135. Transferred to section 85-3105.

## Section

- 79-8,136. Transferred to section 79-8,137.05.  
 79-8,137. Transferred to section 85-3106.  
 79-8,137.01. Transferred to section 85-3107.  
 79-8,137.02. Transferred to section 85-3108.  
 79-8,137.03. Transferred to section 85-3109.  
 79-8,137.04. Transferred to section 85-3110.  
 79-8,137.05. Transferred to section 85-3112.  
 79-8,138. Transferred to section 85-3113.  
 79-8,139. Transferred to section 85-3114.  
 79-8,140. Transferred to section 85-3115.

## (q) TEACHER CORPS AMERICORPS EDUCATION AWARD PROGRAM

- 79-8,141. Teacher Corps AmeriCorps Education Award Program; duties; legislative intent.

## (r) INCENTIVES FOR VOLUNTARY TERMINATION

- 79-8,142. Incentives for voluntary termination; school district; duties.

## (s) ALTERNATIVE CERTIFICATION FOR QUALITY TEACHERS ACT

- 79-8,143. Act, how cited.  
 79-8,144. Legislative findings and declarations.  
 79-8,145. Teacher education program; baccalaureate degree, graduate degree, or professional degree; forty-eight or more semester credit hours or associate degree; temporary certificate to teach; issuance; terms and conditions.  
 79-8,145.01. Alternative certificate to teach; issuance; terms and conditions.

## (t) TEACH IN NEBRASKA TODAY ACT

- 79-8,146. Act, how cited.  
 79-8,147. Terms, defined.  
 79-8,148. Teach in Nebraska Today Program; created; purpose.  
 79-8,149. Student loan repayment assistance; eligibility; amount; priority for funds; procedure; deadline.  
 79-8,150. Student loan repayment assistance; grant; application; deadlines.  
 79-8,151. Student loan repayment assistance; how paid; third-party vendor; contract authorized.  
 79-8,152. Program; amount; limitation.  
 79-8,153. Rules and regulations.  
 79-8,154. Grant; availability; amount; priorities.

## (a) CERTIFICATES

**79-801 Nebraska certificate to administer; required of administrators and supervisors.**

All persons holding the official title of (1) superintendent of schools, (2) principal or supervisor of an accredited school, or (3) supervisor of any special subjects or subject in which such persons actually supervise the work of other teachers in that subject or those subjects shall hold a Nebraska certificate to administer.

**Source:** Laws 1937, c. 184, § 3, p. 728; C.S.Supp.,1941, § 79-1303; R.S.1943, § 79-1329; Laws 1949, c. 256, § 329, p. 801; Laws 1957, c. 355, § 18, p. 1212; R.S.1943, (1994), § 79-1229; Laws 1996, LB 900, § 431; Laws 2003, LB 685, § 4.

## Cross References

Private, denominational, or parochial schools which elect not to meet accreditation or approval requirements, persons who monitor instruction, see section 79-1601.

**79-802 Nebraska certificate or permit; prerequisite to teaching; employment of teacher aides; requirements.**

(1) Except as provided in subsection (2) of this section, no person shall be employed to teach in any public, private, denominational, or parochial school in this state who does not hold a valid Nebraska certificate or permit issued by the Commissioner of Education legalizing him or her to teach the grade or subjects to which elected.

(2) Any person who holds a valid certificate or permit to teach issued by another state may be employed as a substitute teacher in any public, private, denominational, or parochial school in this state for not more than ten working days if he or she begins the application process, on the first employment day, for a Nebraska substitute teacher's certificate and the issuance of such certificate is pending.

(3) Public, private, denominational, or parochial schools in the state may employ persons who do not hold a valid Nebraska teaching certificate or permit issued by the Commissioner of Education to serve as aides to a teacher or teachers. Such teacher aides may not assume any teaching responsibilities. A teacher aide may be assigned duties which are nonteaching in nature if the employing school has assured itself that the aide has been specifically prepared for such duties, including the handling of emergency situations which might arise in the course of his or her work.

**Source:** Laws 1925, c. 182, § 7, p. 476; C.S.1929, § 79-1307; R.S.1943, § 79-1333; Laws 1949, c. 256, § 333, p. 802; Laws 1957, c. 355, § 19, p. 1212; Laws 1965, c. 515, § 4, p. 1638; Laws 1969, c. 726, § 1, p. 2760; Laws 1988, LB 802, § 22; Laws 1995, LB 123, § 1; R.S.Supp.,1995, § 79-1233; Laws 1996, LB 900, § 432; Laws 1997, LB 347, § 23.

**Cross References**

**Private, denominational, or parochial schools which elect not to meet accreditation or approval requirements**, persons who monitor instruction, see section 79-1601.

**Teacher, disqualification as school board member**, see section 79-544.

**Teacher aides**, qualifications and supervision, see section 79-1154.

Possession of certificate is a necessary prerequisite to continue employment as teacher. *Greer v. Chelewski*, 162 Neb. 450, 76 N.W.2d 438 (1956).

Teacher's contract was invalid where teacher had no certificate. *Kuhl v. School District No. 76 of Wayne County*, 155 Neb. 357, 51 N.W.2d 746 (1952).

**79-802.01 American Indian language teacher; requirements.**

(1) Teaching American Indian languages is essential to the proper education of American Indian children. School districts and postsecondary educational institutions may employ approved American Indian language teachers to teach their native language. For purposes of this section, approved American Indian language teacher means a teacher who has passed the tribe's written and oral approval test.

(2) Approved American Indian language teachers that do not also have a Nebraska teaching certificate shall not teach any subject other than the American Indian language they are approved to teach by the tribe.

(3) Each tribe shall develop both a written and an oral test that must be successfully completed in order to determine that a teacher is approved to teach the tribe's native language. When developing such approval tests, the tribe shall include, but not be limited to, which dialects will be used, whether it will standardize its writing system, and how the teaching methods will be

evaluated in the classroom. The teacher approval tests shall be administered at a community college or state college.

**Source:** Laws 1999, LB 475, § 1.

**79-803 Certificate; extension; service in armed forces; conditions.**

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

**Source:** Laws 1945, c. 220, § 1, p. 657; R.S.Supp.,1947, § 79-1335.01; Laws 1949, c. 256, § 336, p. 803; Laws 1951, c. 287, § 1, p. 954; Laws 1971, LB 802, § 3; R.S.1943, (1994), § 79-1236; Laws 1996, LB 900, § 433; Laws 1999, LB 813, § 18.

**79-804 Teacher's or administrator's certificate; registration required; failure; effect.**

(1) Each teacher or administrator shall register his or her certificate with the public, private, denominational, or parochial school in which the teacher or administrator is employed. The superintendent or administrator of the school shall endorse upon the certificate that it has been registered and the date of registration. Such registration shall be without fee. No employment of a teacher or administrator shall be valid until the certificate is so registered. On or before September 15 of each year, the public, private, denominational, and parochial schools shall file with the State Department of Education a fall personnel report which shall specify the names of all individuals employed by the school who are required by law to hold a certificate and such other information as the Commissioner of Education directs. The superintendent or administrator of the school shall transmit within ten days to the State Department of Education the name of the teacher or administrator to be employed, together with the position to which employed, if the teacher or administrator is employed after the submission of the fall personnel report. The Commissioner of Education shall certify to the school the name of any teacher or administrator who has not been issued a certificate or given evidence of application to the State Department of Education and qualification for a certificate or permit. The teacher or administrator shall not be reimbursed for any services to the school after the date of receipt of notification by the school.

(2) The Commissioner of Education shall notify the county treasurer to withhold all school money belonging to any district employing an uncertificated teacher or administrator until the teacher or administrator has obtained a certificate or has been dismissed by the board employing such teacher or administrator. The county treasurer shall withhold such money.

**Source:** Laws 1925, c. 181, § 1, p. 470; C.S.1929, § 79-1310; R.S.1943, § 79-1338; Laws 1949, c. 256, § 339, p. 803; Laws 1959, c. 410,



§ 1, p. 1376; Laws 1961, c. 408, § 1, p. 1225; Laws 1971, LB 802, § 4; R.S.1943, (1994), § 79-1239; Laws 1996, LB 900, § 434; Laws 1999, LB 272, § 87.

Before beginning to teach, teacher is required to register teacher's certificate. *Johnson v. School Dist. No. 3 of Clay County*, 168 Neb. 547, 96 N.W.2d 623 (1959).

Recovery was denied where teacher did not hold proper certificate. *Kuhl v. School District No. 76 of Wayne County*, 155 Neb. 357, 51 N.W.2d 746 (1952).

Where teacher's certificate is not registered, contract of employment is invalid. *Zevin v. School Dist. No. 11 of City of Cozad*, 144 Neb. 100, 12 N.W.2d 634 (1944).

### **79-805 Teachers or administrators without certificates; employment prohibited; effect.**

The school board or board of education shall be personally liable for all public money paid to teachers or administrators who are not qualified under sections 79-806 to 79-815. A teacher or administrator violating such sections shall not recover any money for services while teaching during the time that such contract and certificate are invalid. Any person having knowledge of the employment by a school district of an uncertified teacher or administrator may prefer charges against the board.

**Source:** Laws 1925, c. 181, § 2, p. 470; C.S.1929, § 79-1311; R.S.1943, § 79-1339; Laws 1949, c. 256, § 340, p. 804; Laws 1965, c. 515, § 5, p. 1638; Laws 1971, LB 802, § 5; Laws 1988, LB 802, § 23; R.S.1943, (1994), § 79-1240; Laws 1996, LB 900, § 435; Laws 2003, LB 685, § 5.

Teacher cannot recover for services rendered during time that contract and certificate are invalid. *Johnson v. School Dist. No. 3 of Clay County*, 168 Neb. 547, 96 N.W.2d 623 (1959).

Recovery cannot be had on contract or on quantum meruit where certificate has not been registered. *Zevin v. School Dist. No. 11 of City of Cozad*, 144 Neb. 100, 12 N.W.2d 634 (1944).

### **79-806 Legislative findings; purpose of sections.**

(1) The Legislature finds that there is an educator workforce shortage in this state and that efforts need to be made to recruit, prepare, retain, and support the teaching profession while maintaining high-quality educators in our classrooms around the state.

(2) The purpose of sections 79-806 to 79-815 is to provide more flexibility in the certification of qualified educators for Nebraska schools and not to decrease any requirements for certificates to teach, provide special services, and administer in Nebraska schools.

**Source:** Laws 1963, c. 491, § 1, p. 1569; Laws 1988, LB 802, § 24; R.S.1943, (1994), § 79-1247.03; Laws 1996, LB 900, § 436; Laws 2003, LB 685, § 6; Laws 2022, LB1218, § 11; Laws 2023, LB705, § 82.

#### **Cross References**

**Excellence in Teaching Act**, see section 85-3101.

This statute is merely declarative of the Legislature's purpose in enacting this series of statutes. It has been modified by deletion of part of section 79-1247.06, R.R.S.1943, which allowed completion of two years of a college program as the

maximum requirement for teaching. *State ex rel. Douglas v. Faith Baptist Church of Louisville*, 207 Neb. 802, 301 N.W.2d 571 (1981).

### **79-807 Terms, defined.**

For purposes of sections 79-806 to 79-815, unless the context otherwise requires:

(1) Board means the State Board of Education;

(2) Certificate means an authorization issued by the commissioner to an individual who meets the qualifications to engage in teaching, providing special services, or administering in prekindergarten through grade twelve in the elementary and secondary schools in this state;

(3) Commissioner means the Commissioner of Education;

(4) Department means the State Department of Education;

(5) Human relations training means course work or employment experiences that lead to (a) an awareness and understanding of the values, lifestyles, contributions, and history of a pluralistic society, (b) the ability to recognize and deal with dehumanizing biases, including, but not limited to, sexism, racism, prejudice, and discrimination, and an awareness of the impact such biases have on interpersonal relations, (c) the ability to translate knowledge of human relations into attitudes, skills, and techniques which result in favorable experiences for students, (d) the ability to recognize the ways in which dehumanizing biases may be reflected in instructional materials, (e) respect for human dignity and individual rights, and (f) the ability to relate effectively to other individuals and to groups in a pluralistic society other than the applicant's own;

(6) Special education training means course work or employment experiences that provide an individual with the knowledge of (a) the exceptional needs of the disabilities defined under the Special Education Act, (b) the major characteristics of each disability in order to recognize its existence in children, (c) the various alternatives for providing the least restrictive environment for children with disabilities, (d) methods of teaching children with disabilities in the regular classroom, and (e) prereferral alternatives, referral systems, multi-disciplinary team responsibilities, the individualized education program process, and the placement process;

(7) Special services means supportive services provided to students that do not primarily involve teaching, including, but not limited to, (a) audiology, psychology, and physical or occupational therapy, (b) the coaching of extracurricular activities, and (c) subject areas for which endorsement programs are not offered by a standard institution of higher education; and

(8) Standard institution of higher education means any college or university, the teacher education programs of which are fully approved by the board or approved in another state pursuant to standards which are comparable and equivalent to those set by the board.

**Source:** Laws 1963, c. 491, § 2, p. 1569; Laws 1988, LB 802, § 25; Laws 1989, LB 250, § 1; R.S.1943, (1994), § 79-1247.04; Laws 1996, LB 900, § 437; Laws 2003, LB 685, § 7; Laws 2019, LB675, § 4; Laws 2022, LB1218, § 12; Laws 2023, LB705, § 83.

**Cross References**

Special Education Act, see section 79-1110.

**79-808 Teachers and administrators; certificates and permits; requirements; board; duties; advisory committees; expenses.**

(1) The board shall establish, adopt, and promulgate appropriate rules, regulations, and procedures governing the issuance, renewal, conversion, suspension, and revocation of certificates and permits to teach, provide special services, and administer based upon (a) earned college credit in humanities,

social and natural sciences, mathematics, or career and technical education, (b) earned college credit, or its equivalent in professional education, for particular teaching, special services, or administrative assignments, (c) criminal history record information if the applicant has not been a continuous Nebraska resident for five years immediately preceding application for the first issuance of a certificate, (d) human relations training, (e) successful teaching, administration, or provision of special services, and (f) moral, mental, and physical fitness for teaching, all in accordance with sound educational practices. Such rules, regulations, and procedures shall also provide for endorsement requirements to indicate areas of specialization on such certificates and permits. Such rules and regulations shall not require any test of basic skills.

(2) The board may issue a temporary certificate, valid for a period not to exceed two years, to any applicant for certification who has not completed the human relations training requirement.

(3) Members of any advisory committee established by the board to assist the board in teacher education and certification matters shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177. Each school district which has an employee who serves as a member of such committee and which is required to hire a person to replace such member during the member's attendance at meetings or activities of the committee or any subcommittee thereof shall be reimbursed from the Certification Fund for the expense it incurs from hiring a replacement. School districts may excuse employees who serve on such advisory committees from certain duties which conflict with any advisory committee duties.

**Source:** Laws 1963, c. 491, § 3, p. 1569; Laws 1981, LB 427, § 1; Laws 1984, LB 994, § 9; Laws 1985, LB 633, § 7; Laws 1986, LB 997, § 14; Laws 1987, LB 529, § 6; Laws 1989, LB 250, § 2; Laws 1990, LB 1090, § 20; Laws 1991, LB 511, § 57; Laws 1992, LB 245, § 62; Laws 1995, LB 123, § 2; R.S. Supp., 1995, § 79-1247.05; Laws 1996, LB 900, § 438; Laws 2001, LB 314, § 1; Laws 2003, LB 685, § 8; Laws 2009, LB 547, § 2; Laws 2020, LB 381, § 91; Laws 2023, LB 705, § 84.

This statute grants broad powers to the State Board of Education to adopt rules and regulations governing the issuance of teaching certificates to be based upon "earned college credit" as well as other factors deemed to be important to a determination of fitness to teach. *State ex rel. Douglas v. Faith Baptist Church of Louisville*, 207 Neb. 802, 301 N.W.2d 571 (1981).

### **79-809 Teachers' entry-level certificates or permits; qualifications.**

In addition to the requirements in section 79-808, the maximum which the board may require for the issuance of any entry-level certificate or permit shall be that the applicant (1) has a baccalaureate degree that qualifies for a certificate to teach, (2) has satisfactorily completed, within two years of the date of application, an approved program at a standard institution of higher education, (3) has special education training, (4) has earned college credit in an approved program, at a standard institution of higher education, for which endorsement is sought, and (5) has paid a nonrefundable fee to the department as provided in section 79-810.

**Source:** Laws 1963, c. 491, § 4, p. 1570; Laws 1976, LB 833, § 1; Laws 1984, LB 994, § 10; Laws 1985, LB 633, § 8; Laws 1990, LB 1090, § 21; Laws 1994, LB 1310, § 10; Laws 1996, LB 754, § 8; R.S. 1943, (1994), § 79-1247.06; Laws 1996, LB 900, § 439; Laws 2001, LB 314, § 2; Laws 2003, LB 685, § 9; Laws 2007, LB 150, § 1; Laws 2023, LB 705, § 85.

A state agency which requires, as a minimum for certification of an individual, the maximum requirement permitted by statute does not violate the limiting terms of such statute. The state has a compelling interest in the quality and ability of those who are employed to teach its young people, and a requirement that

such teacher possess an appropriate baccalaureate degree is neither arbitrary nor unreasonable and is a reliable indicator of the probability of success as a teacher. *State ex rel. Douglas v. Faith Baptist Church of Louisville*, 207 Neb. 802, 301 N.W.2d 571 (1981).

**79-810 Certificates or permits; issuance by Commissioner of Education; fee; disposition; contents of certificate or permit; endorsements; Certification Fund; created; use; investment.**

(1) Certificates and permits shall be issued by the commissioner upon application on forms prescribed and provided by him or her which shall include the applicant's social security number.

(2) Each certificate or permit issued by the commissioner shall indicate the area of authorization to teach, provide special services, or administer and any areas of endorsement for which the holder qualifies. During the term of any certificate or permit issued by the commissioner, additional endorsements may be made on the certificate or permit if the holder submits an application, meets the requirements for issuance of the additional endorsements, and pays a nonrefundable fee as set by the commissioner, not to exceed fifty-five dollars.

(3) The department shall make available on a portal on the department's website the option or ability for an individual with a certificate or permit to apply for an endorsement. Such portal shall also include a list of courses that an individual with a certificate or permit may take to add an endorsement to such certificate or permit. The commissioner shall allow an individual with a certificate or permit the following alternative methods of obtaining an endorsement:

(a) Taking a subject-specific content examination in designated endorsement areas and indicating such subject as an endorsement on such individual's certificate or permit based solely on passage of the examination; or

(b) Completing an approved program of equivalent professional education in a designated endorsement area that is provided by an accredited public school.

(4) The Certification Fund is created. Any fee received by the department under sections 79-806 to 79-815 shall be remitted to the State Treasurer for credit to the fund. The fund shall be used by the department in paying the costs of certifying educators pursuant to such sections and to carry out subsection (3) of section 79-808. For issuance of a certificate or permit valid in all schools, the nonrefundable fee shall be set by the commissioner, not to exceed sixty-five dollars. Transfers may be made from the Professional Practices Commission Fund to the Education Future Fund at the direction of the Legislature. The State Treasurer shall transfer any money remaining in the Professional Practices Commission Fund on July 19, 2024, to the Certification Fund as soon after such date as administratively possible. Any money in the Certification Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1963, c. 491, § 5, p. 1571; Laws 1967, c. 549, § 8, p. 1814; Laws 1969, c. 728, § 1, p. 2763; Laws 1969, c. 729, § 1, p. 2764; Laws 1969, c. 584, § 79, p. 2393; Laws 1977, LB 540, § 1; Laws 1980, LB 771, § 1; Laws 1991, LB 855, § 1; Laws 1991, LB 511, § 58; Laws 1992, LB 245, § 63; Laws 1993, LB 348, § 29; Laws 1994, LB 1066, § 89; R.S.1943, (1994), § 79-1247.07; Laws 1996,

LB 900, § 440; Laws 1997, LB 206, § 1; Laws 1997, LB 752, § 216; Laws 2002, Second Spec. Sess., LB 1, § 5; Laws 2003, LB 685, § 10; Laws 2007, LB150, § 2; Laws 2009, First Spec. Sess., LB3, § 59; Laws 2022, LB1218, § 13; Laws 2024, LB1306, § 1; Laws 2024, LB1329, § 69; Laws 2024, LB1413, § 48.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB1306, section 1, with LB1329, section 69, and LB1413, section 48, to reflect all amendments.

**Note:** Changes made by LB1306 became effective July 19, 2024. Changes made by LB1329 became effective July 19, 2024. Changes made by LB1413 became effective April 2, 2024.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

**Nebraska State Funds Investment Act**, see section 72-1260.

**79-811 Teachers' and administrators' certificates or permits; college credits submitted; certification; certification or permit in another state; how treated.**

(1) Except as provided in subsection (2) of this section for applicants who possess a similar certification or permit in another state, all college credits submitted for the purpose of obtaining a certificate or permit shall be earned in or accepted by a standard institution of higher education and shall be certified by the proper authorities of the institution attended, showing the academic and professional preparation of the applicant.

(2) If an applicant possesses a similar certification or permit in another state, such applicant's eligibility for a certificate or permit in this state may be demonstrated by experience as an educator in such other state which shows the academic and professional preparation of the applicant.

**Source:** Laws 1963, c. 491, § 6, p. 1571; R.S.1943, (1994), § 79-1247.08; Laws 1996, LB 900, § 441; Laws 2003, LB 685, § 11; Laws 2022, LB1218, § 14.

**Cross References**

**Approval of teacher education programs**, State Board of Education, see section 79-318.

**79-812 Repealed. Laws 2003, LB 685, § 37.**

**79-813 Teachers' and administrators' certificates or permits; military spouses; applicants by reciprocity; requirements.**

(1)(a) The board shall authorize the issuance of a certificate or permit to any applicant for such certificate or permit who:

(i) Is a military spouse or has been offered employment to teach, administer, or provide special services by an accredited school district in Nebraska or an approved and accredited private, denominational, or parochial school in Nebraska;

(ii) Holds a valid certificate or permit, in force in another state at the time of application, to teach, administer, or provide special services;

(iii) Has held such certificate or permit for at least one year;

(iv) Is in good standing in all states in which the applicant holds a certificate or permit to teach, administer, or provide special services;

(v) Does not have any pending investigation or complaint against any such certificate or permit;

(vi) Meets all residency and background check requirements otherwise required for a Nebraska certificate or permit; and

(vii) Pays any applicable fees.

(b) The commissioner shall verify that the applicant for a certificate or permit under this subsection meets the requirements of subdivisions (a)(iv) and (v) of this subsection. Such applicant shall not be required to meet the human relations training requirement under section 79-808 to obtain such certification or permit. Such certificate or permit shall be valid for at least three years and shall include the same or similar endorsements to teach in all subject areas for which the applicant had been certified to teach in such other state if a similar endorsement is offered in Nebraska.

(c) A preliminary permit shall be issued to an applicant upon submission of the application, payment of the applicable fees, and the successful completion of the criminal history record information check as provided in section 79-814.01. The preliminary permit shall remain in force until the commissioner completes the review of all requirements in subdivision (1)(a) of this section and either issues a certificate or permit or notifies the applicant of the reason such certificate or permit cannot be issued.

(d) The board shall adopt and promulgate rules and regulations to (i) expedite the processing of an application submitted under this subsection by an applicant whose spouse is serving on active duty at the time of such submission and (ii) specify the documentation necessary to establish the applicant's status as a spouse of a person who is serving on active duty at the time of such submission.

(e) For purposes of this subsection:

(i) Active duty means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. chapters 1209 and 1211; and

(ii) Military spouse has the same meaning as in section 38-118.01.

(2)(a) The board shall authorize the issuance of a certificate or permit to any applicant for such certificate or permit who:

(i) Holds a valid certificate or permit to teach in force in another state at the time of application;

(ii) Is in good standing in all states in which the applicant holds a certificate or permit to teach;

(iii) Does not have any pending investigation or complaint against any such certificate or permit;

(iv) Meets all residency and background check requirements otherwise required for a Nebraska certificate or permit; and

(v) Pays any applicable fees.

(b) The commissioner shall verify that the applicant for a teaching certificate or permit under this subsection meets the requirements of subdivisions (2)(a)(ii) and (iii) of this section. Such applicant shall not be required to meet the human relations training requirement under section 79-808 to obtain such certification or permit. Such certificate or permit shall include the same or similar endorsements to teach in all subject areas for which the applicant had been certified to teach in such other state if a similar endorsement is offered in Nebraska.

(c) A conditional permit shall be issued to an applicant upon submission of the application, payment of the applicable fees, and the successful completion of the criminal history record information check as provided in section 79-814.01. The conditional permit shall remain in force until the commissioner

completes the review of all the requirements of subdivision (2)(a) of this section and either issues a certificate or permit to teach or notifies the applicant of the reason such certificate or permit cannot be issued.

(d) The department shall make available on a portal on the department's website the option or ability for individuals to apply for a certificate to teach pursuant to this subsection.

(3) In addition to certificates and permits issued pursuant to subsections (1) and (2) of this section, the board may authorize the issuance of other certificates or permits to applicants who hold a valid certificate or permit currently in force in another state if the requirements for the certificate or permit held by the applicant are comparable and equivalent to those required for a similar type of certificate or permit issued under sections 79-806 to 79-815.

**Source:** Laws 1963, c. 491, § 8, p. 1571; Laws 1988, LB 802, § 26; R.S.1943, (1994), § 79-1247.10; Laws 1996, LB 900, § 443; Laws 2003, LB 685, § 12; Laws 2021, LB389, § 1; Laws 2022, LB1218, § 15; Laws 2024, LB1329, § 70.  
Effective date July 19, 2024.

**79-814 Teachers' and administrators' certificates or permits; limitations on use.**

The board may limit the use of any certificate or permit issued under sections 79-806 to 79-815.

**Source:** Laws 1963, c. 491, § 9, p. 1572; Laws 1985, LB 633, § 9; R.S.1943, (1994), § 79-1247.11; Laws 1996, LB 900, § 444; Laws 1997, LB 347, § 24; Laws 2003, LB 685, § 13.

**79-814.01 Criminal history record information search; denial of certificate or permit; when; costs; confidentiality.**

(1) Upon request by the commissioner, the Nebraska State Patrol shall undertake a search for criminal history record information relating to an applicant for a certificate pursuant to subdivision (1)(c) of section 79-808, including transmittal of the applicant's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The criminal history record information check shall include information concerning the applicant from federal repositories of such information and repositories of such information in other states if authorized by federal law. The Nebraska State Patrol shall issue a report to the commissioner that shall include the criminal history record information concerning the applicant.

(2) The commissioner may deny issuance of a certificate or permit to any applicant who has a felony conviction or who has any misdemeanor conviction involving abuse, neglect, or sexual misconduct. In reviewing an applicant's criminal history record information, the commissioner shall take into consideration any information, including information submitted by the applicant, regarding (a) the facts and circumstances surrounding a conviction, (b) the type of offense and the sentence imposed, (c) whether the conduct resulting in a conviction would constitute a crime in Nebraska, (d) the date of the offense, (e) the age of the applicant at the time of the offense, and (f) the applicant's conduct and positive social contributions since the offense.

(3) The board shall determine and set the costs for processing criminal history record information checks pursuant to this section and section 79-808 which shall be borne by the applicant for a certificate or permit. The costs shall be limited to the actual direct costs arising from the processing of the criminal history record information checks.

(4) Criminal history record information subject to federal confidentiality requirements shall remain confidential and may be released only upon the written authorization by the applicant, except that if the applicant appeals the denial of a certificate or permit by the commissioner, the filing of an administrative appeal shall constitute a release of the information for the limited purpose of the appeal. If the applicant requests a closed hearing, such request shall be subject to the Open Meetings Act.

**Source:** Laws 2003, LB 685, § 14; Laws 2004, LB 821, § 28.

Cross References

Open Meetings Act, see section 84-1407.

**79-814.02 Conditional permit; when.**

An applicant subject to a criminal history record information check shall be issued a conditional permit prior to receipt by the commissioner of criminal history record information of the applicant, which conditional permit shall be valid for up to one year, if the applicant signs a statement that identifies all crimes of which the applicant has been convicted and the commissioner determines the applicant to be of good moral character and meets all other certification requirements. An applicant's conditional permit is void upon a final determination that the applicant does not meet the requirements for issuance of a certificate. The applicant may request a hearing regarding the denial of a certificate or permit as provided by the rules and regulations adopted pursuant to section 79-808.

For purposes of this section, a determination is final upon issuance of a final decision on appeal or upon expiration of the time in which the applicant may request a hearing without such hearing being requested.

**Source:** Laws 2003, LB 685, § 15.

**79-815 Certificate; continuance in force; conversion privileges.**

Any regular Nebraska certificate, including any permanent or life certificate in force on January 1, 1964, shall remain in force for its regular term. Upon application by the holder of any such certificate, the board may authorize the conversion of such certificate to a similar certificate or permit issued by the commissioner under sections 79-806 to 79-815.

**Source:** Laws 1963, c. 491, § 11, p. 1572; Laws 1971, LB 292, § 21; Laws 1988, LB 802, § 28; R.S.1943, (1994), § 79-1247.13; Laws 1996, LB 900, § 445; Laws 2003, LB 685, § 16.

**79-816 Nebraska Teacher Apprenticeship Program; certificate or permit to teach; eligibility; requirements for completion; State Department of Education; Commissioner of Education; duties.**

(1) The State Department of Education shall create and administer the Nebraska Teacher Apprenticeship Program. The purpose of the program is to help recruit and increase the number of teachers throughout the state by



utilizing an apprenticeship model for training. The program shall provide for an applicant who successfully completes the program to obtain a certificate or permit issued by the Commissioner of Education. The department may work with standard institutions of higher education as defined in section 79-807, the Department of Labor, and other entities the State Department of Education deems necessary to develop and implement the program.

(2) An individual may apply for participation in the program if the individual (a) is an employee of a school approved or accredited by the State Department of Education or (b) has a contract to begin working for a school approved or accredited by the State Department of Education at the start of the school year for which the individual is applying for participation in the program.

(3) The department shall determine requirements for completion of the program by an applicant. The requirements shall include, but need not be limited to:

- (a) The completion of a one-year apprenticeship in a classroom;
- (b) A baccalaureate degree from a standard institution of higher education; and
- (c) Successful completion of a subject area examination and pedagogy examination created by the department as part of the program.

(4) The Commissioner of Education shall issue a certificate to teach as set forth pursuant to the rules and regulations adopted and promulgated pursuant to sections 79-806 to 79-815 to an applicant who successfully completes the program.

(5) It is the intent of the Legislature to appropriate one million dollars for fiscal year 2023-24 and each fiscal year thereafter from the Education Future Fund to the State Department of Education for the program.

**Source:** Laws 2023, LB705, § 51.

#### **79-816.01 Interstate Teacher Mobility Compact; rules and regulations.**

The State Board of Education shall adopt and promulgate rules and regulations to provide for certification of teachers pursuant to the Interstate Teacher Mobility Compact.

**Source:** Laws 2023, LB298, § 6.

#### **Cross References**

**Interstate Teacher Mobility Compact**, see section 79-1505.

### **(b) EMPLOYMENT CONTRACTS**

#### **79-817 Schools; contract of employment; writing required.**

A contract for the employment of a teacher or administrator for a public school in the State of Nebraska shall be in writing.

**Source:** Laws 1943, c. 201, § 1, p. 672; R.S.1943, § 79-2146; Laws 1949, c. 256, § 348, p. 807; Laws 1971, LB 802, § 6; R.S.1943, (1994), § 79-1248; Laws 1996, LB 900, § 447; Laws 2001, LB 797, § 17.

Teacher's contract must be in writing on form recommended by Commissioner of Education. Johnson v. School Dist. No. 3 of Clay County, 168 Neb. 547, 96 N.W.2d 623 (1959).

Use of contract form recommended by Superintendent of Public Instruction prevented discharge by district board. Greer v. Chelewski, 162 Neb. 450, 76 N.W.2d 438 (1956).

#### **79-818 School board; employment of teachers and administrators; contracts; how executed; prohibitions.**

A majority of the members of a school board of any school district may enter into a contract of employment with a legally qualified teacher or administrator. Such majority has authority to designate one or more members of the board to sign such contract, which signature shall be binding upon the entire board. A duplicate of such contract shall be filed with the secretary. No member of the board shall enter into or execute on behalf of the district any contract with any teacher or administrator related to him or her or to the majority of the board by blood or marriage notwithstanding section 49-1499.04. The secretary shall notify the State Department of Education, at the time the contract is made, of the length of the proposed term of school and the name of the teacher or administrator. No money belonging to the district shall be paid for teaching to any but legally qualified teachers, and a board shall not pay out money belonging to the school district to any teacher or administrator after such board has received a sworn statement upon behalf of a board that the services of the teacher or administrator in question are under previous contract to that board.

**Source:** Laws 1881, c. 78, subdivision IV, § 11, p. 348; Laws 1883, c. 72, § 7, p. 291; Laws 1901, c. 60, § 1, p. 432; R.S.1913, § 6773; Laws 1915, c. 117, § 1, p. 267; C.S.1922, § 6314; C.S.1929, § 79-411; Laws 1937, c. 182, § 1, p. 713; C.S.Supp.,1941, § 79-411; R.S. 1943, § 79-411; Laws 1949, c. 256, § 349, p. 807; Laws 1971, LB 802, § 7; R.S.1943, (1994), § 79-1249; Laws 1996, LB 900, § 448; Laws 1999, LB 272, § 88; Laws 2001, LB 242, § 25.

Power of district to employ a teacher and to transact business of the school district implies power to discharge for cause before expiration of term. *Arehart v. School District No. 8 of Hitchcock County*, 137 Neb. 369, 289 N.W. 540 (1940).

Duty of employing teacher is vested in school board. *Morfeld v. Huddin*, 131 Neb. 180, 267 N.W. 350 (1936).

Title to office cannot be determined in injunction suit. *School Dist. No. 77 of Phelps County v. Cowgill*, 76 Neb. 317, 107 N.W. 584 (1906).

Without stipulation to contrary, teacher cannot be dismissed without cause. *Wallace v. School Dist. No. 27 of Saline County*, 50 Neb. 171, 69 N.W. 772 (1897).

Contract is one of employment. Discretion of board cannot be controlled by writ of mandamus procured by voters of district. *State ex rel. Lewellen v. Smith*, 49 Neb. 755, 69 N.W. 114 (1896).

Contract with teacher is binding though moderator was not consulted. *Montgomery v. State ex rel. Thompson*, 35 Neb. 655, 53 N.W. 568 (1892).

Contract made by de facto officer binds district. *School Dist. No. 25 of Hall County v. Cowee*, 9 Neb. 53, 2 N.W. 235 (1879).

### **79-819 Schools; contract of employment; contents.**

A contract for employment of a teacher or administrator authorized under section 79-818 shall contain (1) a provision by which the employed person affirms that he or she holds or will hold, at the beginning of the term of the contract, a valid certificate properly registered with the school district and that he or she is not under contract with another school board of a school district in this state and (2) a provision that there shall be no penalty for release from the contract.

**Source:** Laws 1943, c. 201, § 2, p. 672; R.S.1943, § 79-2147; Laws 1949, c. 256, § 350, p. 808; Laws 1971, LB 802, § 8; R.S.1943, (1994), § 79-1250; Laws 1996, LB 900, § 449; Laws 1999, LB 272, § 89.

#### **Cross References**

**Certificate**, registration, see section 79-804.

Teacher must hold at beginning of term valid certificate registered in office of county superintendent. *Johnson v. School Dist. No. 3 of Clay County*, 168 Neb. 547, 96 N.W.2d 623 (1959).

### **79-820 Schools; contract with employees of another district, prohibited; penalty.**

No school board or board of education in the State of Nebraska shall enter into a contract of employment with a teacher or administrator who is already under contract with another school board or board of education within this state covering a part or all of the same time of performance as the contract with such other board. No person under contract with any school board or board of education shall enter into such a contract of employment with another school board or board of education for part or all of the same time of performance as his or her contract with such other board. Upon the receipt of a sworn statement, made for or authorized by such other board, that a person employed by any board in such capacity is already under contract of employment with such other board for part or all of the same time of performance as such person is, has been, or will be so employed by the board, the board shall immediately cease payment of any salary to such teacher or administrator. Any member of a board of education or school board who knowingly violates any of the provisions of this section shall be individually and personally liable for any damages sustained by the other school district.

**Source:** Laws 1943, c. 201, § 3, p. 672; R.S.1943, § 79-2148; Laws 1949, c. 256, § 351, p. 808; Laws 1971, LB 802, § 9; R.S.1943, (1994), § 79-1251; Laws 1996, LB 900, § 450.

**79-821 Schools; violation of contract; notice; suspension of certificate.**

Upon presentation of proof that any teacher, principal, supervisor, assistant superintendent, or superintendent has, without just cause, violated or abrogated his or her contract with a school district in the state, the State Board of Education shall suspend the certificate of such teacher, principal, supervisor, assistant superintendent, or superintendent for a period of not more than one calendar year after a hearing has been held at a time and place fixed by the board and of which notice has been given to the person whose certificate is sought to be suspended by either registered or certified mail at least ten days prior to the hearing.

**Source:** Laws 1943, c. 201, § 4, p. 673; R.S.1943, § 79-2149; Laws 1949, c. 256, § 352, p. 809; Laws 1957, c. 242, § 58, p. 865; Laws 1992, LB 1001, § 28; R.S.1943, (1994), § 79-1252; Laws 1996, LB 900, § 451.

Proceeding to suspend teacher's certificate becomes moot on appeal when period of suspension has elapsed. *Henderson v. School Dist. of Scottsbluff*, 184 Neb. 858, 173 N.W.2d 32 (1969).

Authority to revoke certificate is vested in State Board of Education. *Greer v. Chelowski*, 162 Neb. 450, 76 N.W.2d 438 (1956).

**79-822 Administrators; employment; salary; contract; term.**

At any regular meeting, a school board or board of education may elect for employment such administrators as the board may deem necessary for the proper conduct of the affairs of the school district at such salaries as the board may deem reasonable. It may contract with such administrators for terms not to exceed three years. No person shall be declared elected unless he or she receives the vote of a majority of all the members of the board. The contract of employment shall be reduced to writing.

**Source:** Laws 1971, LB 802, § 11; R.S.1943, (1994), § 79-1254.01; Laws 1996, LB 900, § 452.

**79-823 Repealed. Laws 1997, LB 347, § 59.**

## (c) TENURE

**79-824 Terms, defined.**

For purposes of sections 79-824 to 79-842, unless the context otherwise requires:

(1) Certificated employee means and includes all teachers and administrators as defined in section 79-101, other than substitute teachers, who are employed one-half time or more by any class of school district;

(2) School board means the governing board or body of any class of school district;

(3) Probationary certificated employee means a teacher or administrator who has served under a contract with the school district for less than three successive school years in any school district, unless extended one or two years by a majority vote of the board in a Class IV or V school district, except that after September 1, 1983, in Class IV and V school districts the requirement shall be three successive school years. Probationary certificated employee also means superintendents, regardless of length of service;

(4) Just cause means: (a) Incompetency, which includes, but is not limited to, demonstrated deficiencies or shortcomings in knowledge of subject matter or teaching or administrative skills; (b) neglect of duty; (c) unprofessional conduct; (d) insubordination; (e) immorality; (f) physical or mental incapacity; (g) failure to give evidence of professional growth as required in section 79-830; or (h) other conduct which interferes substantially with the continued performance of duties;

(5) Permanent certificated employee means a teacher or administrator who has served the probation period as defined in this section; and

(6) School year, for purposes of employment, means three-fourths of the school year or more on duty, exclusive of summer school.

A certificated employee who has been hired to fulfill the duties of another certificated employee who is on leave of absence shall not accrue rights under sections 79-824 to 79-842 during the period that the employee is fulfilling such duties.

**Source:** Laws 1982, LB 259, § 1; Laws 1984, LB 994, § 13; Laws 1991, LB 166, § 1; R.S.1943, (1994), § 79-12,107; Laws 1996, LB 900, § 454.

Unprofessional conduct must be conduct directly related to the fitness of the actor to act in his or her professional capacity. Unprofessional conduct is that conduct which breaches the rules or ethical code of a profession or conduct which is unbecoming a member in good standing of a profession. The use of corporal punishment by a teacher, in violation of section 79-295, may subject the teacher to discipline under this section. *Daily v. Board of Ed. of Morrill Cty. School Dist. No. 62-0063*, 256 Neb. 73, 588 N.W.2d 813 (1999).

While subsection (4) of this section (formerly subsection (4) of section 79-12,107) does not define neglect of duty, evidence that

a particular duty was not competently performed on certain occasions, or evidence of an occasional neglect of some duty of performance does not ordinarily establish incompetency or neglect of duty sufficient to constitute just cause for termination. Pursuant to subsection (4) of this section (formerly subsection (4) of section 79-12,107), unprofessional conduct must be conduct directly related to the employee's fitness to act in his or her professional capacity. *Boss v. Fillmore Cty. Sch. Dist. No. 19*, 251 Neb. 669, 559 N.W.2d 448 (1997).

**79-825 Part-time certificated employee; become permanent employee; formula; reduction in force; effect.**

(1) Part-time certificated employees shall become permanent certificated employees based upon the following formula:

(a) For certificated employees employed four-fifths time or more, each such year of employment shall count as a full successive school year; and

(b) For certificated employees employed one-half time or more but less than four-fifths time, each such year of employment shall be credited against the three-year requirement for acquiring permanent certificated employee status in an amount proportionate to the term of such employment for each year. Such certificated employees shall become eligible for permanent certificated status at the beginning of the school year next succeeding the year in which they attain the proportionate amount of time.

(2) Any certificated employee who achieves permanent certificated employee status shall not lose such permanent certificated employee status because of reduction in force resulting in a contract amendment which would reduce such certificated employee to any part-time employment position.

**Source:** Laws 1982, LB 259, § 2; Laws 1991, LB 166, § 2; R.S.1943, (1994), § 79-12,108; Laws 1996, LB 900, § 455.

#### Cross References

**Reduction-in-force policy,** see sections 79-846 to 79-849.

Subsection (1)(b) of this section (formerly subsection (1)(b) of section 79-12,108) allows a teacher's pre-1991 service to be counted toward his or her permanent status. *Nickel v. Saline Cty. Sch. Dist. No. 163*, 251 Neb. 762, 559 N.W.2d 480 (1997).

### **79-826 Certificated employee; disciplinary action; superintendent; powers; procedures.**

The superintendent or the superintendent's designee may take action with regard to a certificated employee's performance or conduct which is deemed reasonably necessary to assist the certificated employee and further school purposes, including: (1) Counseling; (2) oral reprimand; (3) written reprimand; and (4) suspension without pay for not to exceed thirty working days.

Prior to taking any action under subdivision (3) of this section, the certificated employee shall be advised of the alleged reasons for the proposed action and provided the opportunity to present the certificated employee's version of the facts. The certificated employee may proceed under the school district's grievance procedure if the school district has such a grievance procedure which provides for a review of such action or may, within seven calendar days after the superintendent or superintendent's designee takes such action, challenge the decision through the administrative chain of command.

Prior to taking any action under subdivision (4) of this section, the certificated employee shall be advised in writing of the alleged reasons for the proposed action and provided the opportunity to present the certificated employee's version of the facts. Within seven calendar days after receipt of such notice, the certificated employee may make a written request to the secretary of the school board or the superintendent or superintendent's designee for formal due process hearing under section 79-832. If such a request is not delivered within such time, the action of the superintendent or the superintendent's designee shall become final.

**Source:** Laws 1982, LB 259, § 3; R.S.1943, (1994), § 79-12,109; Laws 1996, LB 900, § 456.

For purposes of bringing error proceedings, this statute does not require a school board to act in a judicial manner when administering pay scale grievances. *Kropp v. Grand Island Pub. Sch. Dist. No. 2*, 246 Neb. 138, 517 N.W.2d 113 (1994).

### **79-827 Certificated employee; contract cancellation or amendment; reasons; procedures.**

(1) The contract of any certificated employee, including a superintendent, associate superintendent, or assistant superintendent, may be canceled or

amended by a majority of the members of the school board during the school year for any of the following reasons: (a) Upon revocation or suspension of a certificate by the State Board of Education of any certificated employee whose duties require such a certificate; (b) breach of any of the material provisions of the teacher's or administrator's contract; (c) for any of the reasons set forth in the employment contract; (d) incompetency; (e) neglect of duty; (f) unprofessional conduct; (g) insubordination; (h) immorality; or (i) physical or mental incapacity.

(2) If the school board or the superintendent or superintendent's designee of any school district determines that it is appropriate to consider cancellation of a certificated employee's contract during the school year for the reasons set forth in subsection (1) of this section, the certificated employee shall be notified in writing of the alleged grounds for cancellation of the contract and that such certificated employee's contract may be canceled. Within seven calendar days after receipt of such notice, the certificated employee may make a written request to the secretary of the school board or to the superintendent or superintendent's designee for a hearing.

(3) Prior to scheduling of action or the hearing, if requested, the notice of possible cancellation and the reasons supporting possible cancellation shall be considered a confidential employment matter subject to the provisions of sections 79-539, 79-8,109, and 84-1410 and shall not be released to the public or any news media.

(4) This section does not prevent the suspension from duty with pay of a certificated employee pending a decision on the cancellation of the contract.

**Source:** Laws 1982, LB 259, § 4; R.S.1943, (1994), § 79-12,110; Laws 1996, LB 900, § 457; Laws 2003, LB 685, § 17.

Subsection (1) of this section (formerly subsection (1) of section 79-12,110) confers upon a school board the authority to cancel the contract of any certificated employee by a majority vote of its members. Pursuant to subsection (1) of this section, a probationary certificated employee's contract may be canceled for reasons including incompetency, neglect of duty, unprofessional conduct, or reasons set forth in the employee's contract. *Boss v. Fillmore Cty. Sch. Dist. No. 19*, 251 Neb. 669, 559 N.W.2d 448 (1997).

Approval in an open meeting of a motion to consider the termination of a teacher without stating any details is not a public release of information in violation of this section. *Stephens v. Board of Ed. of Sch. Dist. No. 5 of Pierce County*, 230 Neb. 38, 429 N.W.2d 722 (1988).

A contract of a certificated employee may be canceled at any time during the school year pursuant to the provisions of this section. *Schiefelbein v. School Dist. No. 0013*, 17 Neb. App. 80, 758 N.W.2d 645 (2008).

A contractual provision purporting to alter the deadline for notice of nonrenewal does not affect a school board's ability to cancel a contract pursuant to this section. *Schiefelbein v. School Dist. No. 0013*, 17 Neb. App. 80, 758 N.W.2d 645 (2008).

The notice of cancellation required by this section is fulfilled, even where the notice incorrectly states that any hearing will be an informal due process hearing pursuant to section 79-834, if the notice states that all the formal due process hearing protections contained in section 79-832 will be provided. *Schiefelbein v. School Dist. No. 0013*, 17 Neb. App. 80, 758 N.W.2d 645 (2008).

### **79-828 Probationary certificated employee; probationary period; evaluation; contract amendment or nonrenewal; procedure.**

(1) The contract of a probationary certificated employee shall be deemed renewed and remain in full force and effect unless amended or not renewed in accordance with sections 79-824 to 79-842.

(2) The purpose of the probationary period is to allow the employer an opportunity to evaluate, assess, and assist the employee's professional skills and work performance prior to the employee obtaining permanent status.

All probationary certificated employees employed by any class of school district shall, during each year of probationary employment, be evaluated at least once each semester, unless the probationary certificated employee is a superintendent, in accordance with the procedures outlined below:

The probationary certificated employee shall be observed and evaluation shall be based upon actual classroom observations for an entire instructional period. If deficiencies are noted in the work performance of any probationary certificated employee, the evaluator shall provide the probationary certificated employee at the time of the observation with a list of deficiencies and a list of suggestions for improvement and assistance in overcoming the deficiencies. The evaluator shall also provide the probationary certificated employee with follow-up evaluations and assistance when deficiencies remain.

If the probationary certificated employee is a superintendent, he or she shall be evaluated twice during the first year of employment and at least once annually thereafter.

(3) If the school board or the superintendent or superintendent's designee determines that it is appropriate to consider whether the contract of a probationary certificated employee or the superintendent should be amended or not renewed for the next school year, such certificated employee shall be given written notice that the school board will consider the amendment or nonrenewal of such certificated employee's contract for the ensuing school year. Upon request of the certificated employee, notice shall be provided which shall contain the written reasons for such proposed amendment or nonrenewal and shall be sufficiently specific so as to provide such employee the opportunity to prepare a response and the reasons set forth in the notice shall be employment related.

(4) The school board may elect to amend or not renew the contract of a probationary certificated employee for any reason it deems sufficient if such nonrenewal is not for constitutionally impermissible reasons, and such nonrenewal shall be in accordance with sections 79-824 to 79-842. Amendment or nonrenewal for reason of reduction in force shall be subject to sections 79-824 to 79-842 and 79-846 to 79-849.

(5) Within seven calendar days after receipt of the notice, the probationary certificated employee may make a written request to the secretary of the school board or to the superintendent or superintendent's designee for a hearing before the school board.

(6) Prior to scheduling of action or a hearing on the matter, if requested, the notice of possible amendment or nonrenewal and the reasons supporting possible amendment or nonrenewal shall be considered a confidential employment matter as provided in sections 79-539, 79-8,109, and 84-1410 and shall not be released to the public or any news media.

(7) At any time prior to the holding of a hearing or prior to final determination by the school board to amend or not renew the contract involved, the probationary certificated employee may submit a letter of resignation for the ensuing year, which resignation shall be accepted by the school board.

(8) The probationary certificated employee shall be afforded a hearing which shall not be required to meet the requirements of a formal due process hearing as set forth in section 79-832 but shall be subject to section 79-834.

**Source:** Laws 1982, LB 259, § 5; Laws 1986, LB 534, § 1; R.S.1943, (1994), § 79-12,111; Laws 1996, LB 900, § 458; Laws 2012, LB870, § 5; Laws 2018, LB377, § 60.

Only the superintendent or the superintendent's designee can determine and recommend to the school board that it should consider the nonrenewal of a teaching contract. Once the school board, superintendent, or superintendent's designee recom-

mends that the school board should consider nonrenewal of a teaching contract, one of those three must give notice to the teacher that the school board will be considering nonrenewal of such teacher's contract. *Bentley v. School Dist. No. 025 of Custer County*, 255 Neb. 404, 586 N.W.2d 306 (1998).

Subsection (2) of this section (formerly subsection (2) of section 79-12,111) requires that superintendents be evaluated in accordance with the statutory provisions. Subsection (2) of this section (formerly subsection (2) of section 79-12,111) requires that the school board evaluate its superintendent at least twice during his or her first year of employment. Subsection (2) of this section (formerly subsection (2) of section 79-12,111) requires that a school board provide its superintendent with notice in the form of a biannual evaluation his or her first year of employment as to any deficiencies in his or her work. *Boss v. Fillmore Cty. Sch. Dist. No. 19*, 251 Neb. 669, 559 N.W.2d 448 (1997).

The notice required under subsection (3) of this section refers to nonrenewal or amendment of the contract of a probationary

certificated employee for the next school year. Under subsections (6) and (7) of this section, such employee is entitled to confidential treatment of the notice and reasons supporting possible amendment or nonrenewal of the contract of employment only if requested by the employee. Under subsection (8) of this section, a probationary employee is entitled to only an informal hearing, not a formal due process hearing. *Matrisciano v. Board of Ed. of Brady Sch. Dist. No. 6 of Lincoln County*, 236 Neb. 133, 459 N.W.2d 230 (1990).

Subsection (4) of this section subjects the nonrenewal of a probationary teacher's contract because of a reduction in force to the notice provisions of subsections (3) and (5) of this section. *Kennedy v. Board of Ed. of Sch. Dist. of Ogallala*, 230 Neb. 68, 430 N.W.2d 49 (1988).

This provision is applicable to a principal employed as a probationary certificated employee. *Nuzum v. Board of Ed. of Sch. Dist. of Arnold*, 227 Neb. 387, 417 N.W.2d 779 (1988).

### **79-829 Permanent certificated employee; contract amendment or termination; reasons.**

The contract of a permanent certificated employee shall be deemed continuing and shall be renewed and remain in full force and effect unless amended or terminated in accordance with the provisions of sections 79-824 to 79-842. The school board by a vote of the majority of its members may determine that such permanent certificated employee's contract shall be amended or terminated for any of the following reasons: (1) Just cause as defined in section 79-824; (2) reduction in force as set forth in sections 79-846 to 79-849, or change of leave-of-absence policies; (3) failure of the certificated employee upon written request of the school board or the administrators of the school district to accept employment for the next school year within the time designated in the request, except that the certificated employee shall not be required to signify such acceptance prior to March 15 of each year; or (4) revocation or suspension by the State Board of Education of the certificate of a certificated employee whose duties require such a certificate.

**Source:** Laws 1982, LB 259, § 6; R.S.1943, (1994), § 79-12,112; Laws 1996, LB 900, § 459; Laws 2003, LB 685, § 18.

Although this section does not specifically define the phrase "reduction in force" as used in the teacher tenure statutes, it involves terminating a teacher's contract due to a surplus of staff. *Miller v. School Dist. No. 18-0011 of Clay Cty.*, 278 Neb. 1018, 775 N.W.2d 413 (2009).

The intent of the tenured teacher statutes is to guarantee a tenured, or permanent certificated, teacher continued employment except where specific statutory grounds for termination of the teacher's contract are demonstrated. *Miller v. School Dist.*

*No. 18-0011 of Clay Cty.*, 278 Neb. 1018, 775 N.W.2d 413 (2009).

Pursuant to former sections 79-12,107 to 79-12,121 and sections 79-1254.02 to 79-1254.08, the Legislature has attenuated a school board's discretion to pare its staff in the face of reduced needs and has imposed specific procedures for achieving a reduction in force. *Nickel v. Saline Cty. Sch. Dist. No. 163*, 251 Neb. 762, 559 N.W.2d 480 (1997).

### **79-830 Permanent certificated employee; evidence of professional growth required.**

Every six years permanent certificated employees shall give evidence of professional growth. Six semester hours of college credit shall be accepted as evidence of professional growth or, in the alternative, such other activities as are approved by the school board, which may include, but are not limited to, educational travel, professional publications, or work on educational committees.

**Source:** Laws 1982, LB 259, § 7; R.S.1943, (1994), § 79-12,113; Laws 1996, LB 900, § 460.

### **79-831 Certificated employee; contract amendment, termination, nonrenewal, or cancellation; notice; hearing.**



Any probationary or permanent certificated employee whose contract of employment may be amended, terminated, or not renewed for the next school year shall be notified in writing on or before April 15 of each year of such possible action on the contract. If the certificated employee wishes a hearing, a written request shall be sent to the secretary of the school board or the superintendent of schools or the superintendent's designee within seven calendar days after receipt of the written notice. Unless (1) continued by written agreement between the parties or their representatives as provided in this section or (2) a hearing officer is utilized as provided in sections 79-840 to 79-842, final action by the school board must be taken on or before May 15 of each year. If a hearing on amendment, nonrenewal, cancellation, or termination is not requested within the time provided for in sections 79-824 to 79-842, the school board shall make a final determination. With regard to all hearings provided for under such sections, either formal due process hearings or informal hearings, the certificated employee shall be advised in writing at least five days prior to the date of hearing of the date, time, and place of the hearing. Except as provided in section 79-840, all such hearings shall be held within thirty days of the date of the request for hearing. The parties or their representatives by mutual agreement, confirmed in writing, may extend the times for hearings or final determinations by the board under sections 79-824 to 79-842.

**Source:** Laws 1982, LB 259, § 8; Laws 1993, LB 177, § 1; R.S.1943, (1994), § 79-12,114; Laws 1996, LB 900, § 461.

The requirements for termination of a probationary employee of a school district authorize a more informal proceeding, but require notice of hearing, opportunity to appear in person or by representative, opportunity to offer evidence, and an open session in the event of a termination. *Brennan v. School Dist. No. 21 of Holt County*, 235 Neb. 948, 458 N.W.2d 227 (1990).

If an employee who is given notice of possible cancellation of his or her contract does not request a hearing within 7 calendar days, a school board has no duty to provide a hearing. *Schiefelbein v. School Dist. No. 0013*, 17 Neb. App. 80, 758 N.W.2d 645 (2008).

**79-832 Formal due process hearing; employee's rights; how conducted; school board decision.**

(1) A formal due process hearing for the purposes of sections 79-827 and 79-829 means a hearing procedure adopted by the school board which contains at least the following: (a) Notification to the certificated employee in writing at least five days prior to the hearing of the grounds alleged for action, cancellation, termination, or nonrenewal of the teacher's contract; (b) upon request of the certificated employee a notification, at least five days prior to the hearing, of the names of any witnesses who will be called to testify against the certificated employee and an opportunity to examine any documents that will be presented at the hearing; (c) the right to be represented; and (d) an opportunity to cross-examine all witnesses and to examine all documents and to present evidence material to the issues.

(2) Due and proper notice of the hearing shall be given in accordance with the Open Meetings Act. Upon an affirmative vote of a majority of the school board's members present and voting and upon specific request of the certificated employee or the certificated employee's representative, the hearing shall be conducted in a closed session, but the formal action of the school board shall be taken in open session.

(3) A majority of the members of the school board shall render the decision to amend, cancel, terminate, or not renew a certificated employee's contract, based solely upon the evidence produced at the hearing, shall reduce its

findings and determinations to writing, and shall deliver a written copy thereof to the certificated employee.

**Source:** Laws 1982, LB 259, § 9; R.S.1943, (1994), § 79-12,115; Laws 1996, LB 900, § 462; Laws 2004, LB 821, § 29.

#### Cross References

**Open Meetings Act**, see section 84-1407.

An employee is not entitled to a summary of the nature of the testimony of the witnesses against him or her. *Johanson v. Board of Ed. of Lincoln Cty. School Dist. No. 1*, 256 Neb. 239, 589 N.W.2d 815 (1999).

The notice of cancellation required by section 79-827 is fulfilled, even where the notice incorrectly states that any hearing

will be an informal due process hearing pursuant to section 79-834, if the notice states that all the formal due process hearing protections contained in this section will be provided. *Schiefelbein v. School Dist. No. 0013*, 17 Neb. App. 80, 758 N.W.2d 645 (2008).

### 79-833 Error proceedings; jurisdiction of court.

In error proceedings to reverse, vacate, or modify a final order by a school board made pursuant to sections 79-824 to 79-842, the school district, school board, or both may be named as defendants in error in the proceedings. The proceedings shall not be defeated and the court shall not be deprived of subject matter jurisdiction because the petitioner named the school board rather than the school district or the school district rather than the school board as the defendant in error.

This section shall apply to all error proceedings pending in the district court or the Supreme Court on June 11, 1991, and to error proceedings commenced after such date.

**Source:** Laws 1991, LB 511, § 60; Laws 1992, LB 245, § 65; R.S.1943, (1994), § 79-12,115.01; Laws 1996, LB 900, § 463.

### 79-834 Informal hearing; when held; procedures.

Hearings involving the question of the nonrenewal of a probationary certificated employee's contract or the nonrenewal of a superintendent shall not be due process hearings and shall not be required to meet the requirements of section 79-832 but shall be informal hearings at which the probationary certificated employee or superintendent, or his or her representative, shall be afforded the opportunity to discuss and explain his or her position with regard to continued employment, to present information, and to ask questions of those appearing on behalf of the school district. Such hearings shall be held in closed session at the request of the certificated employee or superintendent, or his or her representative, and upon affirmative vote of a majority of the school board members present and voting, but the formal action of the school board for nonrenewal shall be in open session.

**Source:** Laws 1982, LB 259, § 10; Laws 1993, LB 177, § 2; R.S.1943, (1994), § 79-12,116; Laws 1996, LB 900, § 464.

Neither this section nor any other statute dealing specifically with the subject of a school district's nonrenewal of a probationary employee's contract requires that a school board deliberate in open session following an open hearing. *McQuinn v. Douglas Cty. Sch. Dist. No. 66*, 259 Neb. 720, 612 N.W.2d 198 (2000).

The requirements for termination of a probationary employee of a school district authorize a more informal proceeding, but require notice of hearing, opportunity to appear in person or by representative, opportunity to offer evidence, and an open session in the event of a termination. *Brennan v. School Dist. No. 21 of Holt County*, 235 Neb. 948, 458 N.W.2d 227 (1990).

The termination of the contract of a probationary teacher requires only the affirmative vote of a majority of a quorum of the school board. *Jeter v. Board of Education*, 231 Neb. 80, 435 N.W.2d 170 (1989).

The notice of cancellation required by section 79-827 is fulfilled, even where the notice incorrectly states that any hearing will be an informal due process hearing pursuant to this section, if the notice states that all the formal due process hearing protections contained in section 79-832 will be provided. *Schiefelbein v. School Dist. No. 0013*, 17 Neb. App. 80, 758 N.W.2d 645 (2008).

**79-835 Probationary certificated employee; superintendent; school board; special procedures applicable.**

The hearing for a probationary certificated employee, except a superintendent, provided in section 79-834, may be held before a committee of the school board consisting of not less than three of the board's total members. Notice of such a hearing shall be sent to all board members five days prior to such hearing. If a hearing is held before such a committee, the majority opinion of the committee shall constitute a recommendation to the school board with the final determination being made by a majority vote of the members of the school board without additional hearing. The hearing for a superintendent provided in such section shall not be held before a committee of the school board. Notice shall be given to all parties at least five days prior to such a hearing. A vote of the majority of the members of the school board shall determine final action relative to the contract of the superintendent.

**Source:** Laws 1982, LB 259, § 11; Laws 1993, LB 177, § 3; R.S.1943, (1994), § 79-12,117; Laws 1996, LB 900, § 465.

**79-836 School board; additional sanctions authorized; when.**

(1) After providing the opportunity for a hearing on cancellation, termination, or nonrenewal as provided for in sections 79-828, 79-829, and 79-832, and except when reduction in force is the reason given for possible termination, and when just cause can be shown, the school board may impose such other sanctions, other than termination, cancellation, or nonrenewal of the contract, as may be agreed upon by the parties.

(2) The fact that action has been taken under this section in the past may be taken into consideration in determining appropriate action in future hearings with regard to the certificated employee for a period of five years following the date of such action.

**Source:** Laws 1982, LB 259, § 12; R.S.1943, (1994), § 79-12,118; Laws 1996, LB 900, § 466.

**Cross References**

**Reduction-in-force policy**, see sections 79-846 to 79-849.

**79-837 School board; subpoena power.**

The school board may on its own behalf, or shall upon the request of the certificated employee or his or her representative or at the request of the school district administration or the superintendent or the superintendent's designee, (1) subpoena and compel the attendance of witnesses residing either within or outside the state for the purpose of appearing and testifying at any hearing provided for in sections 79-824 to 79-842 and for the purpose of having such witnesses' depositions taken, in the manner prescribed by law for the taking of depositions in civil actions in the district court, and (2) issue subpoenas for the production of any papers, books, accounts, and documents.

**Source:** Laws 1982, LB 259, § 13; R.S.1943, (1994), § 79-12,119; Laws 1996, LB 900, § 467.

**Cross References**

**Deposition**, civil procedure, see section 25-1242.

**79-838 School board; grant leave of absence; procedures; rights.**

Any school board, upon written request, may grant a leave of absence to a permanent certificated employee for such reasons as the school board deems appropriate, including, but not limited to, study, military service, or professional improvement or because of physical disability or sickness, or as otherwise required by law, subject to such rules and regulations governing leaves of absence as may be adopted by the school board. A school board may require a permanent certificated employee, because of physical disability or sickness, to take a leave of absence for a period not exceeding one year. In any such case, the procedure to be followed and the rights of the permanent certificated employee shall be the same as those prescribed in sections 79-824 to 79-842 for termination of a permanent certificated employee.

**Source:** Laws 1982, LB 259, § 14; R.S.1943, (1994), § 79-12,120; Laws 1996, LB 900, § 468.

**79-839 Certificated employees; assignment rights.**

Sections 79-824 to 79-842 do not provide any certificated employee a right to a specific assignment so long as such certificated employee is assigned to duties for which he or she is qualified by reason of certification, endorsement, or college preparation.

**Source:** Laws 1982, LB 259, § 15; R.S.1943, (1994), § 79-12,121; Laws 1996, LB 900, § 469.

**79-840 Class IV or Class V school district; hearing officer; use authorized.**

Any school board of a Class IV or Class V school district or certificated employee thereof may require that hearings held pursuant to sections 79-824 to 79-839 and such other hearings as designated by the school board be conducted by a hearing officer as specified in sections 79-841 and 79-842. If a hearing is held before such a hearing officer, the requirements of section 79-831 that final action must be taken by the school board on or before May 15 of each year and that a hearing must be held within thirty days of the date of the request for a hearing shall not apply.

**Source:** Laws 1993, LB 177, § 4; R.S.1943, (1994), § 79-12,121.01; Laws 1996, LB 900, § 470.

**79-841 Class IV or V school district; hearing officer; selection.**

If the school board of a Class IV or V school district or certificated employee thereof determines that a hearing shall be conducted by a hearing officer, the parties to the hearing or their representatives shall select a hearing officer. Any person selected as a hearing officer pursuant to this section shall be an attorney admitted to practice in Nebraska and shall be knowledgeable in the rules of civil procedure and evidence applicable to the district courts. If the parties cannot agree on the selection of a hearing officer within seven days after the filing of the request for a hearing, the secretary of the school board shall immediately request a list of hearing officers from the State Department of Education. The department shall at all times maintain a list of at least five qualified hearing officers and shall provide a copy of the list within five days after receipt of a written request from the secretary of a school board. The parties or their representatives shall select the hearing officer by alternately

removing a name from the list until only one name remains. The person whose name remains shall be the hearing officer. The parties shall determine by lot which party shall remove the first name from the list. Such selection shall be completed within seven days after the receipt of the list from the department. The secretary of the school board shall inform the department of the name of the hearing officer selected.

**Source:** Laws 1993, LB 177, § 5; R.S.1943, (1994), § 79-12,121.02; Laws 1996, LB 900, § 471.

**79-842 Class IV or V school district; hearing officer; procedure; costs.**

The hearing officer selected pursuant to section 79-841 shall conduct the hearing referred to in section 79-840, hear and receive evidence, and make recommended findings of fact and conclusions of law. The hearing shall be held in private if the employee so requests, and if the employee does not so request the hearing shall be conducted in public. Within thirty days following the hearing, the hearing officer shall transmit to the school board the original or a certified copy of the record of the hearing which shall include the transcribed testimony from the hearing and the recommended findings of fact and conclusions of law. The certified record filed by the hearing officer shall be the record upon which the school board shall make its decision, and no additional evidence shall be heard by the school board. The school board shall give each party an opportunity for oral argument and briefing prior to making its decision. If a hearing is requested, no one shall contact or be contacted by the school board or individual school board members regarding the subject matter of the hearing in order to obtain or provide information to be considered in making the decision or in an attempt to persuade the school board regarding the decision to be made, except that the school board may receive advice and counsel from an attorney hired to represent the school board in making the decision. In making its decision, the school board shall give weight to the findings of fact of the hearing officer but shall not be bound by them. The school board shall make its decision within twenty days after receipt of the record from the hearing officer. All expenses and fees of the hearing officer in connection with the hearing shall be paid by the school board.

**Source:** Laws 1993, LB 177, § 6; R.S.1943, (1994), § 79-12,121.03; Laws 1996, LB 900, § 472.

**79-843 Teachers and school nurses; contract; renewal; exceptions; amend or terminate; notice; hearings; decision.**

The contracts of the teaching staff and school nurses employed by an educational program administered by the State Department of Education, the Department of Health and Human Services, or a political subdivision of the state, except a school district or an educational service unit, the colleges governed by the Board of Trustees of the Nebraska State Colleges, and any university governed by the Board of Regents of the University of Nebraska shall require the sanction of a majority of the members of the governing board. Except as provided in section 79-845, each such contract shall be deemed renewed and in force and effect until a majority of the governing board votes or the Department of Health and Human Services determines, sixty days before the close of the contract period, to amend or terminate the contract for just cause. The department or the secretary of the governing board shall notify each

teacher or school nurse in writing at least ninety days before the close of the contract period of any conditions of unsatisfactory performance or a reduction in teaching staff or nursing staff that the department or board considers may be just cause to either amend or terminate the contract for the ensuing year. Any teacher or school nurse so notified shall have the right to file, within five days after receipt of such notice, a written request with the department or board for a hearing before the department or board. Upon receipt of such request, the department or board shall order the hearing to be held within ten days after such receipt and shall give written notice of the time and place of the hearing to the teacher or school nurse. At the hearing, evidence shall be presented in support of the reasons given for considering amendment or termination of the contract and the teacher or school nurse shall be permitted to produce evidence related thereto. The department or board shall render the decision to amend or terminate a contract based on the evidence produced at the hearing.

**Source:** Laws 1973, LB 422, § 1; Laws 1975, LB 82, § 2; Laws 1975, LB 493, § 2; Laws 1977, LB 368, § 1; Laws 1978, LB 908, § 1; Laws 1980, LB 442, § 1; Laws 1982, LB 259, § 16; Laws 1991, LB 663, § 42; Laws 1991, LB 511, § 59; Laws 1992, LB 245, § 64; Laws 1993, LB 239, § 3; R.S.1943, (1994), § 79-1254.02; Laws 1996, LB 900, § 473; Laws 1996, LB 1044, § 818; Laws 2007, LB296, § 712.

Pursuant to former sections 79-1254.02 to 79-1254.08 and sections 79-12,107 to 79-12,121, the Legislature has attenuated a school board's discretion to pare its staff in the face of reduced needs and has imposed specific procedures for achieving a reduction in force. *Nickel v. Saline Cty. Sch. Dist. No. 163*, 251 Neb. 762, 559 N.W.2d 480 (1997).

An evidential hearing requested regarding potential termination of a teacher's contract should occur before a tribunal that, among its attributes, is impartial. *Heithoff v. Nebraska State Bd. of Ed.*, 230 Neb. 209, 430 N.W.2d 681 (1988).

As a result of this section, the school board, and not the education commissioner, has authority to terminate a teacher's

employment contract; hence, the board is the only party defendant indispensable for judicial review of an order terminating a teacher. *Heithoff v. Nebraska State Bd. of Ed.*, 230 Neb. 209, 430 N.W.2d 681 (1988).

This section is not applicable to a Class V school district. *Kibbon v. School Dist. of Omaha*, 196 Neb. 293, 242 N.W.2d 634 (1976).

This section requires the affirmative vote of a majority of all members of the Board of Trustees of the Nebraska State Colleges to amend or terminate the contract of a teacher. *Chase v. Board of Trustees of Nebraska State Colleges*, 194 Neb. 688, 235 N.W.2d 223 (1975).

#### **79-844 Teachers and school nurses; contract; minimum standard.**

Sections 79-843 and 79-844 provide a minimum standard and do not repeal any law of a governing authority that provides for additional contract rights pertaining to the same subject matter.

**Source:** Laws 1973, LB 422, § 2; R.S.1943, (1994), § 79-1254.03; Laws 1996, LB 900, § 474.

Former section 79-1254.02 is not applicable to a Class V school district. *Kibbon v. School Dist. of Omaha*, 196 Neb. 293, 242 N.W.2d 634 (1976).

#### **79-845 Department of Correctional Services; Department of Health and Human Services; contract with teaching staff; probationary period.**

Any contract of employment entered into after July 1, 1984, between the teaching staff and the Department of Correctional Services or the Department of Health and Human Services which applies to the first two years of the employment of such teaching staff shall provide that the first two years of the employment of such teacher are a probationary period. Any such contract may be terminated during the probationary period without cause.

**Source:** Laws 1980, LB 442, § 2; Laws 1984, LB 9, § 1; Laws 1993, LB 239, § 4; R.S.1943, (1994), § 79-1254.09; Laws 1996, LB 900, § 475; Laws 1996, LB 1044, § 819.

"[T]he first two years of . . . employment" under this section means the first two calendar years of employment. *Mollring v. Nebraska Dept. of Health & Human Servs.*, 313 Neb. 251, 983 N.W.2d 536 (2023).

## (d) REDUCTION IN FORCE

**79-846 Reduction-in-force policy; adopt; requirements.**

Prior to January 1, 1979, every school board, board of education, or governing board of any educational institution in Nebraska covered by the provisions of sections 79-824 to 79-842 shall adopt a reduction-in-force policy covering employees subject to such statutory provisions to carry out the intent of sections 79-846 to 79-849. No such policy shall allow the reduction of a permanent or tenured employee while a probationary employee is retained to render a service which such permanent employee is qualified by reason of certification and endorsement to perform or, in cases in which certification is not applicable, by reason of college credits in the teaching area. If employee evaluation is to be included as a criterion to be used for reduction in force, specific criteria such as frequency of evaluation, evaluation forms, and number and length of classroom observations shall be included as part of the reduction-in-force policy.

**Source:** Laws 1978, LB 375, § 1; R.S.1943, (1994), § 79-1254.05; Laws 1996, LB 900, § 476.

A school district is legally prohibited by Nebraska's teacher tenure statutes from terminating a permanent certificated teacher's contract and then hiring a probationary teacher to replace him or her. *Miller v. School Dist. No. 18-0011 of Clay Cty.*, 278 Neb. 1018, 775 N.W.2d 413 (2009).

If the contracts of a tenured teacher and a probationary teacher are subject to termination due to a surplus of staff, the tenured teacher must be retained so long as he or she has the

required certification in the area. *Nickel v. Saline Cty. Sch. Dist. No. 163*, 251 Neb. 762, 559 N.W.2d 480 (1997).

Reduction in force policy adopted by board pursuant to this section could properly include teachers' contributions to activity program as a criterion for consideration in selection of teacher to be eliminated through reduction in force. *Dykeman v. Board of Education*, 210 Neb. 596, 316 N.W.2d 69 (1982).

**79-847 Reduction in force; board of education and school district administration; duties.**

Before a reduction in force occurs, the school board or board of education and the school district administration shall present competent evidence demonstrating that a change in circumstances has occurred necessitating a reduction in force. Any alleged change in circumstances must be specifically related to the teacher or teachers to be reduced in force, and the board, based upon evidence produced at the hearing required by sections 79-824 to 79-842, shall be required to specifically find that there are no other vacancies on the staff for which the employee to be reduced is qualified by endorsement or professional training to perform.

**Source:** Laws 1978, LB 375, § 2; Laws 1985, LB 633, § 10; R.S.1943, (1994), § 79-1254.06; Laws 1996, LB 900, § 477.

Before a school board may terminate a teacher's employment because of a reduction in force, it must establish via proof at the hearing (1) a change in circumstances necessitating a reduction in force, (2) that the change in circumstances specifically relates to the teacher to be affected, and (3) that there are no vacancies in the staff for which the teacher to be affected is qualified. A school board has authority to effectuate a reduction in force in

accordance with Nebraska statutes. *Nickel v. Saline Cty. Sch. Dist. No. 163*, 251 Neb. 762, 559 N.W.2d 480 (1997).

In order to support the amendment of a permanent certified teacher's contract on the basis of a reduction in force, the evidence produced at the hearing must establish the contents of the school's reduction in force policy. *Trolson v. Board of Ed. of Sch. Dist. of Blair*, 229 Neb. 37, 424 N.W.2d 881 (1988).

**79-848 Reduction in force; employee; contract terminated; effect; recall; rights.**

Any employee whose contract is terminated because of reduction in force shall be considered dismissed with honor and shall upon request be provided a

letter to that effect. Such employee shall have preferred rights to reemployment for a period of twenty-four months commencing at the end of the contract year of such employee, and the employee shall be recalled on the basis of length of service to the school to any position for which he or she is qualified by endorsement or college preparation to teach. Whenever a school district has, pursuant to section 79-598, contracted for the instruction of all of the students residing in such district, the preferred rights to reemployment shall commence at the end of the student contract period as agreed to by the contracting school district. The employee shall, upon reappointment, retain any benefits which had accrued to such employee prior to termination, but such leave of absence shall not be considered as a year of employment by the district. An employee under contract to another educational institution may waive recall, but such waiver shall not deprive the employee of his or her right to subsequent recall.

**Source:** Laws 1978, LB 375, § 3; Laws 1988, LB 520, § 4; R.S.1943, (1994), § 79-1254.07; Laws 1996, LB 900, § 478; Laws 2022, LB1057, § 2.

The purpose of the tenured teacher act, former sections 79-1248 to 79-1254.08, is to guarantee a tenured teacher continued employment except in two circumstances: (1) discharge for cause, and (2) reduction in teaching force. Roth v. School Dist. of Scottsbluff, 213 Neb. 545, 330 N.W.2d 488 (1983).

The term "reduction in force" is not so vague as to be unconstitutional and is held to mean the termination of a teacher "due to a surplus of staff". Roth v. School Dist. of Scottsbluff, 213 Neb. 545, 330 N.W.2d 488 (1983).

**79-849 Reduction in force; noncompliance with federal or state law; how treated.**

Notwithstanding sections 79-846 to 79-848, if the reduction of an employee based upon the provisions of such sections would place a district in noncompliance of any federal or state laws or regulations requiring affirmative action employment practices, the district may vary from these provisions as necessary to comply with such laws or regulations.

**Source:** Laws 1978, LB 375, § 4; R.S.1943, (1994), § 79-1254.08; Laws 1996, LB 900, § 479.

(e) UNIFIED SYSTEM OR REORGANIZED SCHOOL DISTRICTS

**79-850 Terms, defined.**

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, the Learning Community Reorganization Act, or section 79-407, 79-413, 79-415, or 79-473; 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 or 79-450, 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.

**Source:** Laws 1980, LB 844, § 1; Laws 1985, LB 662, § 36; Laws 1988, LB 520, § 5; R.S.1943, (1994), § 79-12,104; Laws 1996, LB 900,



§ 480; Laws 1997, LB 347, § 25; Laws 1998, LB 1219, § 1; Laws 1999, LB 272, § 90; Laws 2005, LB 126, § 43; Laws 2006, LB 1024, § 59; Referendum 2006, No. 422; Laws 2018, LB377, § 61.

**Cross References**

**Learning Community Reorganization Act**, see section 79-4,117.  
**Reorganization of School Districts Act**, see section 79-432.

**79-851 Teachers; status rights.**

The unified system or reorganized school district or districts may terminate, in accordance with sections 79-824 to 79-842, the contracts of employment of teachers whose employer's school district was or is to be closed, merged, or otherwise altered as provided for unified systems or reorganized school districts in section 79-850, except that such teachers shall for the purpose of reduction in force be considered teachers of the unified system or reorganized school district or districts and the teachers shall be given full credit for the years of teaching experience they had acquired as well as the same tenure or permanent status rights they had in the school district or districts affected by the unification or reorganization.

**Source:** Laws 1980, LB 844, § 2; Laws 1984, LB 634, § 1; Laws 1988, LB 520, § 6; R.S.1943, (1994), § 79-12,105; Laws 1996, LB 900, § 481; Laws 1998, LB 1219, § 2.

**Cross References**

**Reduction-in-force policy**, see sections 79-846 to 79-849.

**79-852 Collective-bargaining agreement; continued; effect.**

The collective-bargaining agreement of the school district or districts forming the unified system or reorganized school district with the largest number of teacher employees shall continue in full force and effect and govern all teachers in the unified system or reorganized school district until replaced by a successor agreement, and the teachers employed by the unified system or reorganized school district and previously employed by the school districts involved in the formation of the unified system or reorganized school district shall automatically be included in that bargaining unit but no certificated public school employee shall be compelled to join any organization or association. If only one collective-bargaining agreement is in effect in the school districts which are a part of the unification or reorganization, that collective-bargaining agreement shall continue in full force and effect until replaced by a successor agreement and the teachers employed by the other school districts involved in the unification or reorganization shall automatically be included in that bargaining unit. For purposes of the Industrial Relations Act, the unified system shall be deemed a public employer as defined in section 48-801.

**Source:** Laws 1980, LB 844, § 3; R.S.1943, (1994), § 79-12,106; Laws 1996, LB 900, § 482; Laws 1998, LB 1219, § 3; Laws 2011, LB397, § 17.

**Cross References**

**Industrial Relations Act**, see section 48-801.01.

**79-853 City of second class or village; merger with city of primary or metropolitan class; rights of teachers and employees preserved.**

A consolidation under sections 79-468 and 79-469 shall not affect the rights of the principals, teachers, janitors, and employees of any of the districts merged under such sections. They shall continue in the employ of the school district into which their former districts are merged. In determining their status, salaries, and other rights, their previous service with the merged district employing them at the time of the merger shall be counted as if they had been originally employed by the consolidated district.

**Source:** Laws 1917, c. 225, § 27, p. 557; C.S.1922, § 6636; C.S.1929, § 79-2627; R.S.1943, § 79-2630; Laws 1949, c. 256, § 222, p. 764; R.S.1943, (1994), § 79-535; Laws 1996, LB 900, § 483.

**79-854 Reduction in force; Retirement Incentive Plan; Staff Development Assistance; continued employment; notification; limitation.**

(1) If the unification or reorganization of two or more school districts will involve a reduction in force, all certificated employees from the district or districts involved in the unification or reorganization shall have, except as limited by subsection (2) of this section, the option to: (a) Retire under the Retirement Incentive Plan pursuant to section 79-855; (b) terminate employment and receive Staff Development Assistance pursuant to section 79-856; or (c) remain employed by the district subject to personnel policies and staffing requirements of the unified system or reorganized district or districts. Each certificated employee shall be notified in writing of the proposed unification or reorganization, the number of employees which will be reduced, and the availability of the Retirement Incentive Plan and Staff Development Assistance prior to such unification or reorganization. If the unification or reorganization will involve a reduction in force prior to the effective date of the unification or reorganization, the notification shall be made by March 15 of the school year in effect. If the unification or reorganization will not involve a reduction in force prior to the effective date of the unification or reorganization, the notification shall be made at least thirty calendar days prior to the effective date of the unification or reorganization but in no event later than March 15 of the calendar year in which action on the reduction in force will occur. The employee election to retire under the Retirement Incentive Plan or to terminate employment and receive Staff Development Assistance shall be made within fifteen calendar days after receiving the notification, or those options are waived.

(2) For each unification or reorganization, the number of certificated employees which receive either the Retirement Incentive Plan or Staff Development Assistance shall be limited to the number of certificated employees which are reduced due to the unification or reorganization. If the number of employees electing participation in the Retirement Incentive Plan or Staff Development Assistance exceed the number of employees which will be reduced, selection for participation shall be determined by the date and time of receipt of the employee election. Employee elections which are received first shall be selected, and all certificated employees in all districts involved in the unification or reorganization shall be treated equally in determining such selection.

**Source:** Laws 1996, LB 1050, § 33; Laws 1998, LB 1219, § 4.

**Cross References**

**Reduction-in-force policy,** see sections 79-846 to 79-849.

**79-855 Retirement Incentive Plan; eligibility; benefit; costs; allocation.**

(1) Except as limited by subsection (2) of section 79-854, all certificated employees from a district involved in a unification or reorganization who are at least fifty-five years of age on the date of unification or reorganization shall be eligible to participate in the Retirement Incentive Plan pursuant to this section if, within fifteen calendar days after receiving notification, the employee signs an agreement to retire effective on or prior to the effective date of the unification or reorganization. To receive a benefit under the Retirement Incentive Plan, a certificated employee must have completed five years of creditable service prior to the effective date of retirement.

(2) A qualified certificated employee who elects retirement under the Retirement Incentive Plan shall receive a benefit in the form of a lump-sum amount, payable in one or two payments. Such payments shall not be included in the determination of final average compensation pursuant to the School Employees Retirement Act. The payments to the certificated employee shall equal seven hundred dollars for each year of service with the district and shall not exceed twenty-four thousand five hundred dollars for each certificated employee receiving benefits under this section.

(3) The Retirement Incentive Plan shall be available to employees only prior to allocation of staff pursuant to section 79-857.

(4) Costs of the Retirement Incentive Plan, prior to the allocation of staff, shall be allocated among the reorganized districts or participating districts in a unification based upon the proportion of valuation each reorganized district receives or each participating district contains. Such costs shall not be included in general fund operating expenditures as defined in section 79-1003 for that fiscal year. Costs associated with agreements beyond the scope of the Retirement Incentive Plan shall be the sole responsibility of the reorganized district or unified system involved in the agreement.

(5) Payments made to employees pursuant to the Retirement Incentive Plan shall be made by the unified system or according to the reorganization plan and, if not specified in the plan, by the reorganized district receiving the largest valuation.

(6) Participation in an early retirement program, other than the Retirement Incentive Plan, shall not be available to transferring staff for a period of one year after the date of unification or reorganization.

**Source:** Laws 1996, LB 1050, § 34; Laws 1998, LB 1219, § 5.

**Cross References**

School Employees Retirement Act, see section 79-901.

**79-856 Staff Development Assistance; eligibility; agreement; contents; costs; allocation.**

(1) Except as limited by subsection (2) of section 79-854, all certificated employees from a district involved in a unification or reorganization who, within fifteen calendar days after receiving notification of the availability of Staff Development Assistance pursuant to section 79-854, terminate employment voluntarily, contract to waive any reduction-in-force rights pursuant to sections 79-846 to 79-849, and sign a Staff Development Assistance agreement, shall receive one year of Staff Development Assistance. Staff Development

Assistance shall be available to employees only prior to allocation of staff pursuant to section 79-857.

(2) Staff Development Assistance shall not be included in the determination of final average compensation pursuant to the School Employees Retirement Act.

(3) The Staff Development Assistance agreement shall specify that:

(a) A stipend equal to fifty percent of annual salary shall be contingent upon enrollment and attendance at a Nebraska state college or the University of Nebraska; or a stipend equal to twenty-five percent of annual salary shall be provided if not enrolled nor in attendance at a Nebraska state college or the University of Nebraska;

(b) The stipend will cease upon attainment of employment of twenty or more hours per week;

(c) The stipend will be paid in the same manner as contract payments for the most recent contract year;

(d) Tuition for two semesters, if applicable, will be paid directly to the Nebraska state college or the University of Nebraska and shall equal resident tuition charges plus fees of such school and will not include costs of books or other instructional materials; and

(e) All reduction-in-force rights pursuant to sections 79-846 to 79-849 are waived by signing the agreement.

(4) Costs of Staff Development Assistance, prior to the allocation of staff, shall be allocated among the reorganized districts or participating districts in a unification based upon the proportion of valuation each reorganized district receives or each participating district contains. Such costs shall not be included in general fund operating expenditures as defined in section 79-1003 for that fiscal year. Costs associated with agreements beyond the scope of Staff Development Assistance shall be the sole responsibility of the reorganized district involved in the agreement.

(5) Payments made to employees pursuant to Staff Development Assistance shall be made by the unified system or according to the reorganization plan and, if not specified in the plan, by the reorganized district receiving the largest valuation.

**Source:** Laws 1996, LB 1050, § 35; Laws 1998, LB 1219, § 6.

**Cross References**

School Employees Retirement Act, see section 79-901.

**79-857 Allocation of certificated employees; procedure.**

(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) All certificated employees from the district or districts who have not been allocated pursuant to subdivision (1)(a) of this section shall be totaled and

allocated among the reorganized districts based upon the proportion of students transferring to the reorganized district;

(c) 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) 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.

**Source:** Laws 1996, LB 1050, § 36; Laws 1998, LB 1219, § 7; Laws 2005, LB 126, § 44; Referendum 2006, No. 422.

**Cross References**

Reduction-in-force policy, see sections 79-846 to 79-849.

**79-858 Other agreements; responsibility.**

Any agreements other than the Retirement Incentive Plan pursuant to section 79-855 or Staff Development Assistance pursuant to section 79-856 shall be the sole responsibility of the unified system or reorganized district.

**Source:** Laws 1996, LB 1050, § 37; Laws 1998, LB 1219, § 8.

(f) STANDARDS OF PROFESSIONAL PRACTICES

**79-859 Professional practices; teachers and administrators; legislative declaration.**

The Legislature declares teaching in public schools in this state and the related services, including administrative and supervisory services, to be a profession, with all of the rights, responsibilities, and privileges accorded other recognized professions.

**Source:** Laws 1967, c. 549, § 1, p. 1813; R.S.1943, (1994), § 79-1280; Laws 1996, LB 900, § 484.

**79-860 Professional practices; terms, defined.**

For purposes of sections 79-859 to 79-870:

- (1) Board means the State Board of Education; and
- (2) Commissioner means the Commissioner of Education.

**Source:** Laws 1993, LB 348, § 30; R.S.1943, (1994), § 79-1280.01; Laws 1996, LB 900, § 485; Laws 2024, LB1306, § 2.  
Effective date July 19, 2024.

**79-861 Repealed. Laws 2024, LB1306, § 8.**

**79-862 Repealed. Laws 2024, LB1306, § 8.**

**79-863 Repealed. Laws 2024, LB1306, § 8.**

**79-864 Repealed. Laws 2024, LB1306, § 8.**

**79-865 Repealed. Laws 2024, LB1306, § 8.**

**79-866 Professional practices; standards; teacher's or administrator's certificate; revocation or suspension; grounds; procedure.**

(1) The board shall adopt and promulgate rules and regulations establishing standards of professional practices for teachers and administrators holding certificates in areas including, but not limited to: (a) Ethical and professional performance; (b) competency; (c) continuance in professional service; and (d) contractual obligations.

(2) The board may, for just cause, revoke or suspend any teacher's or administrator's certificate.

Violation of the standards established pursuant to this section, commission of an immoral act, or conviction of a felony under the laws of this state shall constitute just cause for the revocation or suspension of a teacher's or administrator's certificate by the board. The revocation or suspension of a certificate shall terminate the employment of such teacher or administrator. The board shall immediately notify the secretary or the school board or board of education of the school district where such teacher or administrator is employed of such revocation or suspension, shall notify the teacher or administrator of such revocation or suspension, and shall record the action in the matter in the books or records of the State Board of Education.

**Source:** Laws 1967, c. 549, § 3, p. 1813; Laws 1969, c. 731, § 1, p. 2766; Laws 1971, LB 103, § 1; Laws 1984, LB 994, § 12; Laws 1989, LB 575, § 1; Laws 1993, LB 348, § 36; R.S.1943, (1994), § 79-1282; Laws 1996, LB 900, § 491; Laws 2024, LB1306, § 3. Effective date July 19, 2024.

A violation of the competency standards of the Professional Practices Commission is not, in itself, grounds for terminating the contract of a tenured teacher unless they constitute just cause within the meaning of former section 79-1254. *Schulz v. Board of Education*, 210 Neb. 513, 315 N.W.2d 633 (1982).

The competency standards of the Professional Practices Commission are not designed for use by a school board, and in the

absence of evidence that the school board has adopted those standards as their own, the school board may not terminate a tenured teacher's contract because of a violation of those standards unless the termination is the result of investigation conducted under former section 79-1282. *Schulz v. Board of Education*, 210 Neb. 513, 315 N.W.2d 633 (1982).

**79-867 Teacher's or administrator's certificate; revocation; suspension; effect.**

The revocation of a person's teacher's or administrator's certificate by the board shall automatically revoke any and all Nebraska certificates held by the person. A teacher's or administrator's certificate which has been suspended shall be automatically reinstated at the end of the suspension if such certificate did not expire during the period of suspension. If the certificate expired during the period of suspension, the holder of the expired certificate may secure a new certificate by applying for and by meeting the certification requirements at the time of application for the new certificate. A person whose teacher's or administrator's certificate has been revoked may apply for a new certificate at the expiration of any period of ineligibility fixed by the board by applying for

and by meeting the certification requirements at the time of application for the new certificate.

**Source:** Laws 1989, LB 575, § 4; Laws 1993, LB 348, § 37; R.S.1943, (1994), § 79-1282.01; Laws 1996, LB 900, § 492; Laws 2024, LB1306, § 4.  
Effective date July 19, 2024.

**79-868 Teacher's or administrator's certificate; standards violation; investigations; procedure.**

The board may employ hearing officers to hold hearings and make recommendations to the board concerning alleged violations of standards of professional ethics and practices by persons holding a teacher's or administrator's certificate.

The commissioner may employ persons to investigate and prosecute cases of alleged violations of standards of professional ethics and practices before the board and its hearing officers. The commissioner shall cause to be investigated expeditiously any complaint which is filed with him or her or which is otherwise called to his or her attention and which if legally sufficient constitutes grounds for the revocation or suspension of a certificate or any other appropriate penalty set forth in section 79-866 or in the rules and regulations adopted and promulgated pursuant to such section. If following an investigation the commissioner determines that legally sufficient grounds exist for revocation or suspension of a certificate or for any other appropriate penalty set forth in such section or rules and regulations, the commissioner may, in his or her discretion, file a petition with the board for adjudication of the matter or may reach an agreement for the appropriate sanction as allowed by the rules and regulations.

**Source:** Laws 1967, c. 549, § 4, p. 1813; Laws 1969, c. 731, § 2, p. 2767; Laws 1971, LB 103, § 2; Laws 1973, LB 321, § 2; Laws 1989, LB 575, § 2; Laws 1993, LB 348, § 38; R.S.1943, (1994), § 79-1283; Laws 1996, LB 900, § 493; Laws 2024, LB1306, § 5.  
Effective date July 19, 2024.

There exists no right of appeal to the State Board of Education from an order of the Nebraska Professional Practices Commission dismissing a complaint against a member of the teaching profession for a violation of professional practices criteria. *Berquist v. Campbell*, 210 Neb. 658, 316 N.W.2d 596 (1982).

The competency standards of the Professional Practices Commission are not designed for use by a school board, and in the

absence of evidence that the school board has adopted those standards as their own, the school board may not terminate a tenured teacher's contract because of a violation of those standards unless the termination is the result of investigation conducted under former section 79-1282. *Schulz v. Board of Education*, 210 Neb. 513, 315 N.W.2d 633 (1982).

**79-869 Repealed. Laws 2024, LB1306, § 8.**

**79-870 Teacher's or administrator's certificate; standards violation; witnesses; subpoena; commissioner; issue writs of subpoena; board; modify or quash.**

In the performance of its functions under sections 79-859 to 79-870, the board may subpoena witnesses and place them under oath. The commissioner may issue writs of subpoena, including subpoena duces tecum, requiring the attendance of witnesses and the production of books, records, and documents, and place witnesses under oath to take sworn testimony as part of any

investigation. The board may modify or quash any subpoena issued by the commissioner.

**Source:** Laws 1967, c. 549, § 6, p. 1814; Laws 1992, LB 1001, § 29; Laws 1993, LB 348, § 40; R.S.1943, (1994), § 79-1285; Laws 1996, LB 900, § 495; Laws 2018, LB1081, § 10; Laws 2024, LB1306, § 6. Effective date July 19, 2024.

**79-871 Repealed. Laws 2024, LB1306, § 8.**

(g) PROFESSIONAL OR LABOR ORGANIZATIONS

**79-872 Teacher or administrator; professional or labor organization; deduction from wages.**

Any teacher or administrator employed by a school district who voluntarily participates in a professional or labor organization may authorize the withholding from his or her wages of an amount to be paid to the professional or labor organization. The school district shall make such deduction each month or pay period and pay the amount deducted to such professional or labor organization. The school district may charge an amount not to exceed the actual cost incurred by the school district for making such deductions.

**Source:** Laws 1979, LB 53, § 1; R.S.1943, (1994), § 79-12,101; Laws 1996, LB 900, § 497.

**79-873 Deduction from wages; authorization; form.**

An authorization for a deduction under section 79-872 shall be in writing, and the form to authorize shall also include a notice to the employee of his or her right to refuse authorization. The authorization shall continue in force until revoked in writing by the employee. The authorization may also authorize the professional or labor organization to certify annually the amount to be deducted from each employee's wages, and such certification shall bind the employee, the school district, and the organization.

**Source:** Laws 1979, LB 53, § 2; R.S.1943, (1994), § 79-12,102; Laws 1996, LB 900, § 498.

**79-874 Deductions; school district; liability.**

The school district shall not be liable to the professional or labor organization for any claim, demand, or cost arising out of the withholding of authorized amounts and the transmittal of deductions authorized by the school district employees under sections 79-872 and 79-873.

**Source:** Laws 1979, LB 53, § 3; R.S.1943, (1994), § 79-12,103; Laws 1996, LB 900, § 499.

(h) STUDENT TEACHER OR INTERN

**79-875 Student teacher or intern, defined.**

For purposes of sections 79-875 to 79-878, student teacher or intern means a student who is enrolled in a postsecondary educational institution approved by the State Board of Education for teacher training and who is jointly assigned by such institution and a board of education to student-teach or intern under the



direction of a regularly employed certificated teacher, principal, or other administrator. Student teaching may include duties granted to a certificated teacher under the rules and regulations of such board and any other part of the school program for which either the cooperating teacher or the principal is responsible.

**Source:** Laws 1971, LB 175, § 1; R.S.1943, (1994), § 79-1297; Laws 1996, LB 900, § 500.

**79-876 Student teacher or intern; protection; rules and regulations; comply.**

A student teacher or intern under the supervision of a certificated teacher, principal, or other administrator shall have the protection of the laws accorded the certificated teacher, principal, or other administrator and shall, while acting as such student teacher or intern, comply with all rules and regulations of the local board of education and observe all duties assigned certificated teachers.

**Source:** Laws 1971, LB 175, § 2; R.S.1943, (1994), § 79-1298; Laws 1996, LB 900, § 501.

**79-877 Student teacher or intern; responsibilities and duties.**

A cooperating teacher, in cooperation with the principal or other administrator and the representative of the teacher preparation institution, shall assign to the student teacher or intern responsibilities and duties that will provide adequate preparation for teaching.

**Source:** Laws 1971, LB 175, § 3; R.S.1943, (1994), § 79-1299; Laws 1996, LB 900, § 502.

**79-878 Student teacher or intern; terms, defined.**

Whenever in sections 79-875 to 79-878 board of education is referred to and the school that a student teacher or intern is referred to does not have a board of education, such term shall be the person or governing body that administers such school.

**Source:** Laws 1971, LB 175, § 4; R.S.1943, (1994), § 79-12,100; Laws 1996, LB 900, § 503.

(i) APPROPRIATE RELATIONSHIPS WITH STUDENTS

**79-879 Policy regarding appropriate relationships with students; contents.**

(1) For purposes of this section:

(a) Grooming means building trust with a student and individuals close to the student in an effort to gain access to and time alone with the student, with the ultimate goal of engaging in sexual contact or sexual penetration with the student, regardless of when in the student's life the sexual contact or sexual penetration would take place;

(b) Personal communication system means a device or software that provides for communication between two or more parties and is capable of receiving, displaying, or transmitting communication. Personal communication system includes, but is not limited to, a mobile or cellular telephone, an email service, or a social media platform;

- (c) Sexual contact has the same meaning as in section 28-318;
  - (d) Sexual penetration has the same meaning as in section 28-318; and
  - (e) Student teacher or intern has the same meaning as in section 79-875.
- (2) On or before June 30, 2021, the school board or board of education of each school district and the governing authority of each private, denominational, or parochial school shall adopt a policy regarding appropriate relationships between a student and a school employee or a student teacher or intern. Such policy shall include the following, at a minimum:
- (a) A provision prohibiting any school employee or any student teacher or intern from engaging in grooming;
  - (b) A provision prohibiting any relationship that involves sexual contact or sexual penetration from occurring between a student and a school employee or a student teacher or intern while the student is a current student and for a minimum of one year after the date of the student's graduation or the date the student otherwise ceases enrollment;
  - (c) Examples of grooming and related conduct the board or governing authority deems unacceptable;
  - (d) A procedure for a school employee or a student teacher or intern to verify the policy was received and understood;
  - (e) A procedure for reporting suspected grooming or other unacceptable conduct of a school employee or a student teacher or intern to the school or school district administration, the State Department of Education, the Department of Health and Human Services, and law enforcement;
  - (f) A description of the preferred methods for a school employee or a student teacher or intern to use in communicating with students, including which personal communication systems the board or governing authority has deemed permissible for such purpose;
  - (g) Notice that any violation of the policy by a school employee or a student teacher or intern may result in disciplinary action up to and including dismissal;
  - (h) Notice that any violation of the policy by any certificated employee may result in referral to the State Department of Education and consequences including suspension or revocation of the employee's certificate; and
  - (i) Notice that any violation involving sexual or other abuse will result in referral to the Department of Health and Human Services, law enforcement, or both.
- (3) Nothing in this section shall be construed to limit any certificated employee's duty to report to the State Department of Education any known violation of standards of professional practices adopted by the State Board of Education pursuant to section 79-866.

**Source:** Laws 2020, LB1080, § 1.

(j) HELP EDUCATION LEAD TO PROSPERITY ACT

**79-880 Repealed. Laws 1996, LB 700, § 18.**

**79-881 Repealed. Laws 1996, LB 700, § 18.**

**79-882 Repealed. Laws 1996, LB 700, § 18.**

**79-883 Repealed. Laws 1996, LB 700, § 18.**

**79-884 Repealed. Laws 1996, LB 700, § 18.**

**79-885 Repealed. Laws 1996, LB 700, § 18.**

**79-886 Repealed. Laws 1996, LB 700, § 18.**

**79-887 Repealed. Laws 1996, LB 700, § 18.**

**79-888 Repealed. Laws 1996, LB 700, § 18.**

**79-889 Repealed. Laws 1996, LB 700, § 18.**

**79-890 Repealed. Laws 1996, LB 700, § 18.**

**79-891 Repealed. Laws 1996, LB 700, § 18.**

**79-892 Repealed. Laws 1996, LB 700, § 18.**

(k) INTERSTATE AGREEMENT ON QUALIFICATION  
OF EDUCATIONAL PERSONNEL

**79-893 Repealed. Laws 2003, LB 685, § 37.**

**79-894 Repealed. Laws 2003, LB 685, § 37.**

**79-895 Repealed. Laws 2003, LB 685, § 37.**

(l) MISCELLANEOUS

**79-896 Teachers; applicants; inquiries concerning religious affiliation prohibited.**

It shall be unlawful for any person to prepare or deliver any questionnaire, employment application, or information blank to any applicant for any teaching position in the public schools of this state if the questionnaire, employment application, or information blank contains any inquiry or reference to the religious affiliation or the religious belief of the applicant.

**Source:** Laws 1937, c. 180, § 1, p. 710; C.S.Supp.,1941, § 79-1426; R.S.1943, § 79-1406; Laws 1949, c. 256, § 368, p. 814; R.S.1943, (1994), § 79-1268; Laws 1996, LB 900, § 521.

**Cross References**

For constitutional provisions for religious freedom, see Article I, section 4, and Article VII, section 11, Constitution of Nebraska.

**79-897 Teachers; inquiries concerning religious affiliation; violations; penalty.**

Any person who violates the provisions of section 79-896 is guilty of a Class III misdemeanor. Violation of such section shall be cause for the removal of any superintendent, member of a board of education or school board, or other public school official.

**Source:** Laws 1937, c. 180, § 2, p. 711; C.S.Supp.,1941, § 79-1427; R.S.1943, § 79-1407; Laws 1949, c. 256, § 369, p. 815; Laws 1977, LB 39, § 258; R.S.1943, (1994), § 79-1269; Laws 1996, LB 900, § 522.

**79-898 Repealed. Laws 2017, LB62, § 1.**

**79-899 Repealed. Laws 2017, LB62, § 1.**

**79-8,100 Teachers; solicitation by agents or salespersons prohibited; exceptions.**

It shall be unlawful for any peddler, agent, salesperson, or representative of any commercial enterprise, theatrical production, or play to call upon or to secure contracts with or solicit orders and business from any classroom teacher while the classroom teacher is actively engaged in the pursuit of his or her work as such. For purposes of this section, a teacher is actively engaged in the pursuit of his or her work between the hours of 8:30 a.m. and 5 p.m. on all days the school in which he or she is teaching is in session. The school board or board of education of any school district may designate such other hours as in their judgment seem best during which the classroom teacher or teachers of the district may be interviewed or solicited by the persons designated in this section.

**Source:** Laws 1929, c. 86, § 1, p. 339; C.S.1929, § 79-2133; R.S.1943, § 79-2141; Laws 1949, c. 256, § 372, p. 815; R.S.1943, (1994), § 79-1272; Laws 1996, LB 900, § 525.

**79-8,101 Teachers; solicitation by agents or salespersons; violation; penalty.**

Any person or persons who violate the purpose and intent of the provisions of section 79-8,100 shall be guilty of a Class III misdemeanor.

**Source:** Laws 1929, c. 86, § 2, p. 339; C.S.1929, § 79-2134; R.S.1943, § 79-2142; Laws 1949, c. 256, § 373, p. 816; Laws 1977, LB 39, § 259; R.S.1943, (1994), § 79-1273; Laws 1996, LB 900, § 526.

**79-8,102 Repealed. Laws 2001, LB 797, § 55.**

**79-8,103 Repealed. Laws 2001, LB 797, § 55.**

**79-8,104 Repealed. Laws 2001, LB 797, § 55.**

**79-8,105 Repealed. Laws 2001, LB 797, § 55.**

**79-8,106 Epidemics; teachers' salaries; duty to pay; injury leave; workers' compensation benefits; requirements.**

(1) In case of epidemic sickness prevailing to such an extent that the school or schools in any school district shall be closed, teachers shall be paid their usual salaries in full for such time as the school or schools shall be closed.

(2) If an employee of a school district is physically injured by another individual who intentionally, knowingly, or recklessly causes bodily injury to such employee and such injury occurs within the employee's scope of employment in a manner that would be covered by the Nebraska Workers' Compensation Act, the employee shall receive injury leave and be paid their usual salary in full for such time as the employee is absent and unable to work as a result of such injury not to exceed seven calendar days. Thereafter, the employee shall use workers' compensation benefits as necessary and available in accordance with the Nebraska Workers' Compensation Act, except that no additional compensation shall be paid to an employee for any day for which such employee has already been paid for injury leave pursuant to this section.

(3) Injury leave pursuant to this section shall not count against any other leave the employee accrues as a result of working for such school district. A school district may require confirmation from a physician regarding the causation and the period of time for which an employee is unable to work in determining the applicability of injury leave, and such school district may withhold injury leave until such confirmation is provided.

**Source:** Laws 1919, c. 246, § 1, p. 1016; C.S.1922, § 6542; C.S.1929, § 79-2119; R.S.1943, § 79-2128; Laws 1949, c. 256, § 353, p. 809; R.S.1943, (1994), § 79-1253; Laws 1996, LB 900, § 531; Laws 2020, LB1186, § 1.

**Cross References**

Nebraska Workers' Compensation Act, see section 48-1,110.

**79-8,107 Teachers; lunch period; exception.**

Every school district shall provide each teacher with an uninterrupted lunch period of not less than thirty minutes each school day, and no teacher shall be assigned teaching, supervisory, or other duties during such lunch period, except that school district attendance centers having less than two teachers shall be exempted from the provisions of this section.

**Source:** Laws 1967, c. 519, § 1, p. 1741; R.S.1943, (1981), § 79-547; Laws 1986, LB 820, § 1; R.S.1943, (1994), § 79-1254.10; Laws 1996, LB 900, § 532.

**79-8,108 Teachers and employees; pledge; form.**

All persons engaged in teaching in the public schools of the State of Nebraska and all other employees paid from public school funds, shall sign the following pledge:

I, \_\_\_\_\_, do believe in the United States of America as a government of the people, by the people, for the people; whose just powers are derived from the consent of the governed; a democracy in a republic; an indissoluble nation of many sovereign states; a perfect union, one and inseparable; established upon those principles of freedom, equality, justice and humanity for which American patriots sacrificed their lives and fortunes.

I acknowledge it to be my duty to inculcate in the hearts and minds of all pupils in my care, so far as it is in my power to do, (1) an understanding of the United States Constitution and of the Constitution of Nebraska, (2) a knowledge of the history of the nation and of the sacrifices that have been made in order that it might achieve its present greatness, (3) a love and devotion to the policies and institutions that have made America the finest country in the world in which to live, and (4) opposition to all organizations and activities that would destroy our present form of government.

**Source:** Laws 1951, c. 206, § 4, p. 767; R.S.1943, (1994), § 79-4,148; Laws 1996, LB 900, § 533.

**Cross References**

Oath of office, see sections 11-101 to 11-101.03.

**79-8,109 Teacher, administrator, or full-time employee; personnel file; access; written response; attach.**

Any teacher, administrator, or full-time employee of any public school district shall, upon his or her request, have access to his or her personnel file maintained by the district and shall have the right to attach a written response to any item in such file. Such teacher, administrator, or employee may in writing authorize any other person to have access to such file, which authorization shall be honored by the district. Such access and right to attach a written response shall not be granted with respect to any letters of recommendation solicited by the employer which appear in the personnel file. No other person except school officials while engaged in their professional duties shall be granted access to such file, and the contents thereof shall not be divulged in any manner to any unauthorized person.

**Source:** Laws 1973, LB 370, § 1; R.S.1943, (1994), § 79-4,156; Laws 1996, LB 900, § 534.

**79-8,110 Repealed. Laws 2018, LB377, § 87.**

(m) NEBRASKA TEACHER RECRUITMENT AND RETENTION ACT

**79-8,111 Nebraska Teacher Recruitment and Retention Act, how cited.**

Sections 79-8,111 to 79-8,118 shall be known and may be cited as the Nebraska Teacher Recruitment and Retention Act.

**Source:** Laws 2023, LB705, § 43.  
Termination date January 1, 2028.

**79-8,112 Purpose of act.**

The purpose of the Nebraska Teacher Recruitment and Retention Act is to provide financial incentives to recruit and retain teachers in Nebraska classrooms.

**Source:** Laws 2023, LB705, § 44.  
Termination date January 1, 2028.

**79-8,113 Terms, defined.**

For purposes of the Nebraska Teacher Recruitment and Retention Act:

- (1) Department means the State Department of Education;
- (2) Grant means a grant for teacher recruitment and retention payments under the Nebraska Teacher Recruitment and Retention Act; and
- (3) Teacher means a person who holds a valid certificate to teach in Nebraska issued by the Commissioner of Education and is employed in Nebraska for the instruction of students in elementary or high school grades.

**Source:** Laws 2023, LB705, § 45.  
Termination date January 1, 2028.

**79-8,114 Grants; eligibility.**

- (1) A teacher may apply to the department for a grant. The department shall not prioritize a grant based upon the school where the applicant teaches.
- (2) A teacher is eligible to apply for:
  - (a) A retention one grant of two thousand five hundred dollars if the teacher has signed a contract to complete such teacher's second complete school year

of full-time employment as a teacher at a Nebraska school in school year 2023-24, 2024-25, 2025-26, or 2026-27;

(b) A retention two grant of two thousand five hundred dollars if the teacher has signed a contract to complete such teacher's fourth complete school year of full-time employment as a teacher at a Nebraska school in school year 2023-24, 2024-25, 2025-26, or 2026-27;

(c) A retention three grant of two thousand five hundred dollars if the teacher has signed a contract to complete such teacher's sixth complete school year of full-time employment as a teacher at a Nebraska school in school year 2023-24, 2024-25, 2025-26, or 2026-27; and

(d)(i) A high-need retention grant of five thousand dollars if on or after June 2, 2023, a teacher:

(A) Obtains an endorsement in special education, mathematics, science, technology, or dual credit; and

(B)(I) For an application submitted prior to April 17, 2024, signs a contract to complete a school year of full-time employment as a teacher at a Nebraska school in school year 2024-25, 2025-26, or 2026-27; or

(II) For an application submitted on or after April 17, 2024, signs a contract to complete a school year of full-time employment as a teacher to teach in such endorsement area at a Nebraska school in school year 2024-25, 2025-26, or 2026-27.

(ii) A teacher shall only be eligible to receive one high-need retention grant.

**Source:** Laws 2023, LB705, § 46; Laws 2024, LB1284, § 4.

Operative date April 17, 2024.

Termination date January 1, 2028.

#### **79-8,115 Legislative intent.**

It is the intent of the Legislature to encourage individual schools and school districts to adopt policies incentivizing teacher recruitment and retention through policies similar to the Nebraska Teacher Recruitment and Retention Act. Teachers at schools not adopting a recruitment and retention policy shall not be prohibited from receiving a grant under the Nebraska Teacher Recruitment and Retention Act.

**Source:** Laws 2023, LB705, § 47.

Termination date January 1, 2028.

#### **79-8,116 Appropriation; legislative intent.**

It is the intent of the Legislature to appropriate ten million dollars from the Education Future Fund to carry out the Nebraska Teacher Recruitment and Retention Act.

**Source:** Laws 2023, LB705, § 48.

Termination date January 1, 2028.

#### **79-8,117 Rules and regulations.**

The State Board of Education may adopt and promulgate rules and regulations to carry out the Nebraska Teacher Recruitment and Retention Act.

**Source:** Laws 2023, LB705, § 49.

Termination date January 1, 2028.

**79-8,118 Act, termination.**

The Nebraska Teacher Recruitment and Retention Act terminates on January 1, 2028.

**Source:** Laws 2023, LB705, § 50.  
Termination date January 1, 2028.

## (n) TEACHER SALARY TASK FORCE

**79-8,119 Repealed. Laws 2003, LB 1, § 1; Laws 2003, LB 67, § 34.**

**79-8,120 Repealed. Laws 2003, LB 1, § 1; Laws 2003, LB 67, § 34.**

**79-8,121 Repealed. Laws 2003, LB 1, § 1; Laws 2003, LB 67, § 34.**

**79-8,122 Repealed. Laws 2003, LB 1, § 1; Laws 2003, LB 67, § 34.**

**79-8,123 Repealed. Laws 2003, LB 1, § 1; Laws 2003, LB 67, § 34.**

## (o) MASTER TEACHER PROGRAM ACT

**79-8,124 Repealed. Laws 2023, LB705, § 135.**

**79-8,125 Repealed. Laws 2023, LB705, § 135.**

**79-8,126 Repealed. Laws 2023, LB705, § 135.**

**79-8,127 Repealed. Laws 2023, LB705, § 135.**

**79-8,128 Repealed. Laws 2023, LB705, § 135.**

**79-8,129 Repealed. Laws 2023, LB705, § 135.**

**79-8,130 Repealed. Laws 2023, LB705, § 135.**

**79-8,131 Repealed. Laws 2023, LB705, § 135.**

## (p) EXCELLENCE IN TEACHING ACT

**79-8,132 Transferred to section 85-3101.**

**79-8,133 Transferred to section 85-3103.**

**79-8,134 Transferred to section 85-3104.**

**79-8,135 Transferred to section 85-3105.**

**79-8,136 Transferred to section 79-8,137.05.**

**79-8,137 Transferred to section 85-3106.**

**79-8,137.01 Transferred to section 85-3107.**

**79-8,137.02 Transferred to section 85-3108.**

**79-8,137.03 Transferred to section 85-3109.**

**79-8,137.04 Transferred to section 85-3110.**



**79-8,137.05 Transferred to section 85-3112.**

**79-8,138 Transferred to section 85-3113.**

**79-8,139 Transferred to section 85-3114.**

**79-8,140 Transferred to section 85-3115.**

(q) **TEACHER CORPS AMERICORPS EDUCATION AWARD PROGRAM**

**79-8,141 Teacher Corps AmeriCorps Education Award Program; duties; legislative intent.**

The Nebraska Volunteer Service Commission shall submit a program proposal to the Corporation for National Service to obtain funding for educational awards. The awards shall be used by the commission to (1) provide incentives for new college graduates to establish their teaching careers in Nebraska and (2) provide incentives for experienced Nebraska teachers to pursue graduate degrees. It is the intent of the Legislature that the State Department of Education shall provide state funding to the Nebraska Volunteer Service Commission to contract for a program officer position for the Teacher Corps AmeriCorps Education Award Program if the Corporation for National Service commits to funding such program in Nebraska. State funding provided by the State Department of Education shall be used by the Nebraska Volunteer Service Commission to contract for a program officer position to meet the required monitoring and compliance responsibilities of the program.

**Source:** Laws 2000, LB 1399, § 24.

(r) **INCENTIVES FOR VOLUNTARY TERMINATION**

**79-8,142 Incentives for voluntary termination; school district; duties.**

(1) A school district may agree to pay incentives to a certificated employee in exchange for a voluntary termination of employment.

(2) For purposes of this section, incentives paid in exchange for a voluntary termination of employment include any amount paid, except pursuant to the Retirement Incentive Plan or Staff Development Assistance agreement required under sections 79-854 to 79-856 for school districts involved in a unification or reorganization, to or on behalf of any certificated staff member in exchange for a voluntary termination of employment, including, but not limited to, early retirement inducements and costs to the school district for insurance coverage for such certificated staff member or any member of such certificated staff member's family.

(3) Incentives paid to a certificated teacher in exchange for a voluntary termination of employment shall be a qualified voluntary termination incentive for a certificated teacher for purposes of sections 77-3442 and 79-1028.01 if:

(a) All current and future incentives paid by the school district to such certificated teacher for such voluntary termination of employment do not exceed thirty-five thousand dollars in total and such school district has not and shall not pay any other incentives to such certificated teacher for any voluntary termination of employment;

(b) All current and future incentives for such voluntary termination of employment are paid within five years after such voluntary termination of

employment or prior to such certificated teacher becoming eligible for medicare, whichever occurs first;

(c) Such school district has, to the satisfaction of the State Board of Education, demonstrated that the payment of such incentives in exchange for a voluntary termination of employment will result in a net savings in salary and benefit costs to the school district over a five-year period; and

(d) Such incentives to be paid in exchange for a voluntary termination of employment were not included in any collective-bargaining agreement.

(4) Each school district shall report all incentives paid in exchange for voluntary terminations of employment on the annual financial report in the manner specified by the department.

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

**Source:** Laws 2017, LB512, § 11.

(s) ALTERNATIVE CERTIFICATION FOR QUALITY TEACHERS ACT

**79-8,143 Act, how cited.**

Sections 79-8,143 to 79-8,145.01 shall be known and may be cited as the Alternative Certification for Quality Teachers Act.

**Source:** Laws 2021, LB528, § 29; Laws 2023, LB705, § 86.

**79-8,144 Legislative findings and declarations.**

The Legislature finds and declares that:

(1) Like many other states, Nebraska is facing a teacher and substitute teacher shortage;

(2) Mandatory training days and family leave policies draw many regular teachers out of their classrooms, causing schools to hire substitute teachers;

(3) The Internal Revenue Service requires a separation period for recently retired teachers who may otherwise be interested in returning to the classroom as a substitute teacher;

(4) In the fall of 2016, the State Department of Education conducted a teacher vacancy survey of all school districts, educational service units, and nonpublic school systems;

(5) Such survey showed that the state continues to have hundreds of unfilled teaching positions across the state;

(6) The most widely reported solution for filling teaching vacancies was to hire an individual who holds a transitional, provisional, or temporary teaching certificate; and

(7) Filling teaching vacancies and having an adequate number of substitute teachers is imperative for delivering a high-quality learning experience to students.

**Source:** Laws 2021, LB528, § 30.

**79-8,145 Teacher education program; baccalaureate degree, graduate degree, or professional degree; forty-eight or more semester credit hours or associate degree; temporary certificate to teach; issuance; terms and conditions.**

(1) In addition to certificates issued pursuant to sections 79-806 to 79-815:

(a) The Commissioner of Education shall, subject to the provisions of subsection (3) of this section, grant a temporary certificate to teach on a full-time basis to any applicant who:

(i) Has completed a teacher education program at a standard institution of higher education as defined in section 79-807; and

(ii) Currently possesses a certificate to teach in good standing from another state;

(b) The commissioner may, subject to subsection (3) of this section, grant a temporary certificate to teach on a full-time basis to any applicant who:

(i) Has earned and been awarded a baccalaureate degree, graduate degree, or professional degree from a college or university accredited by an accrediting organization recognized by the United States Department of Education; and

(ii) Has passed any appropriate subject area examination as designated by the State Board of Education; and

(c) Beginning in fiscal year 2024-25, the commissioner shall, subject to subsection (3) of this section, grant a temporary certificate to teach on a full-time basis to any applicant who:

(i) Has completed two years at a college or university accredited by an accrediting organization recognized by the United States Department of Education with at least forty-eight or more semester credit hours or obtained an associate degree from such a college or university;

(ii) Is employed as a paraprofessional or paraeducator at an elementary school, middle school, or high school in Nebraska; and

(iii) Has passed any appropriate subject area examination as designated by the State Board of Education.

(2) Any temporary certificate to teach issued pursuant to this section shall be valid for a period not to exceed two years, during which the holder of such temporary certificate must obtain a certificate to teach pursuant to sections 79-806 to 79-815 by completing the requirements contained in such sections.

(3) Issuance of a temporary certificate to teach pursuant to this section shall be subject to a criminal history record information check pursuant to section 79-814.01 and payment of any required fees.

**Source:** Laws 2021, LB528, § 31; Laws 2023, LB705, § 88.

**79-8,145.01 Alternative certificate to teach; issuance; terms and conditions.**

(1) In addition to certificates issued pursuant to section 79-806 to 79-815, the Commissioner of Education shall, subject to subsections (2) and (3) of this section, issue an alternative certificate to teach on a full-time basis to any applicant who:

(a) Possesses a baccalaureate degree; and

(b) Has successfully completed an alternative teacher program operated by an organization that satisfies the following criteria:

(i) The organization operates in at least five states;

(ii) The organization has operated an alternative teacher certification program for at least ten years; and

(iii) The program requires candidates to pass a subject area examination and a pedagogy examination to receive a documentation of successful completion of such program.

(2) An alternative certificate issued by the Commissioner of Education under this section only authorizes an individual to teach the subject and educational levels for which the individual has successfully completed an alternative teacher program.

(3) Issuance of an alternative certificate pursuant to this section shall also be subject to any rules, regulations, or procedures established pursuant to subdivisions (1)(c) and (f) of section 79-808 and section 79-810.

(4) An individual who receives an alternative certificate pursuant to this section shall:

(a) Participate in a school district clinical experience for one semester in such individual's first semester of employment as a teacher pursuant to this section; and

(b) Be subject to the same certification criteria as an individual who completes a traditional teacher preparation program if converting the alternative certificate to a standard certificate to teach.

**Source:** Laws 2023, LB705, § 87; Laws 2024, LB1329, § 71.  
Effective date July 19, 2024.

(t) TEACH IN NEBRASKA TODAY ACT

**79-8,146 Act, how cited.**

Sections 79-8,146 to 79-8,154 shall be known and may be cited as the Teach in Nebraska Today Act.

**Source:** Laws 2022, LB1218, § 1; Laws 2024, LB1284, § 5.  
Operative date April 17, 2024.

**79-8,147 Terms, defined.**

For purposes of the Teach in Nebraska Today Act:

(1) Default has the same meaning as in 20 U.S.C. 1085, as such section existed on January 1, 2022;

(2) Department means the State Department of Education;

(3) Grant means a grant for beginning or continuing service as a classroom teacher under the Teach in Nebraska Today Act;

(4) Program means the Teach in Nebraska Today Program created in section 79-8,148; and

(5) Teaching full-time means (a) teaching an average of at least four hours per contract day performing instructional duties as a full-time employee of an approved or accredited public, private, denominational, or parochial school in this state or (b) teaching an average of at least four hours per contract day performing dual-credit instructional duties for students of approved or accredited public, private, denominational, or parochial schools in this state while employed full-time at an accredited public or private nonprofit college or university in this state.

**Source:** Laws 2022, LB1218, § 2; Laws 2024, LB1284, § 6.  
Operative date April 17, 2024.

**79-8,148 Teach in Nebraska Today Program; created; purpose.**

The Teach in Nebraska Today Program is created. The department shall administer the program. The purpose of the program is to attract individuals to the teaching profession who have expressed an interest in teaching and to support the employment of those individuals as classroom teachers by providing student loan repayment assistance or grants for service as a classroom teacher in this state.

**Source:** Laws 2022, LB1218, § 3; Laws 2024, LB1284, § 7.  
Operative date April 17, 2024.

**79-8,149 Student loan repayment assistance; eligibility; amount; priority for funds; procedure; deadline.**

(1) Prior to April 17, 2024, student loan repayment assistance under the program shall be available to an individual who applies for the assistance and who:

(a) Is a resident of the State of Nebraska; and

(b) Is teaching full-time or has a contract to teach full-time at the time of application for the program.

(2) The amount of repayment assistance awarded to an eligible applicant pursuant to this section shall be limited to five thousand dollars per year. An eligible applicant may be awarded repayment assistance for applications approved prior to April 17, 2024.

(3) If the funds available for repayment assistance in any year are insufficient to provide assistance to all eligible applicants described in subsection (1) of this section, the department shall establish priorities for awarding repayment assistance with renewal applications given priority over initial applications. For initial applications, priority shall be given to applicants who demonstrate financial need.

(4) An eligible applicant may receive repayment assistance under the program for the repayment of a student loan received through any lender which was incurred in the applicant's own name for his or her own educational expenses at any accredited public or private nonprofit college or university in this state or any other state. If the loan is not a state or federal guaranteed student loan, the note or other writing governing the terms of the loan must require the loan proceeds to be used for expenses incurred by the applicant to attend an accredited public or private nonprofit college or university in this state or any other state.

(5) No additional applications for repayment assistance shall be approved after April 17, 2024.

**Source:** Laws 2022, LB1218, § 4; Laws 2024, LB1284, § 8.  
Operative date April 17, 2024.

**79-8,150 Student loan repayment assistance; grant; application; deadlines.**

(1) Applications prescribed by the Commissioner of Education for student loan repayment assistance must be submitted no later than June 10, 2023. The Commissioner of Education shall determine whether to approve or deny each application and shall notify each applicant of such determination no later than September 10, 2023. Repayment assistance awarded under the program shall be paid, in whole or in part as provided in section 79-8,151, no later than

November 10, 2023, and no later than November 10 of each year thereafter for an application approved prior to April 17, 2024. No new applications for loan repayment assistance shall be approved after April 17, 2024.

(2) Applications for a grant must be submitted no later than July 10, 2024, and no later than July 10 of each year thereafter, on a form and in a manner prescribed by the department. The department shall determine whether to approve or deny each application and shall notify each applicant of such determination no later than October 10, 2024, and no later than October 10 of each year thereafter. Grants awarded under the program shall be paid directly to the applicant no later than December 10, 2024, and no later than December 10 of each year thereafter.

**Source:** Laws 2022, LB1218, § 5; Laws 2024, LB1284, § 10; Laws 2024, LB1329, § 72.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB1284, section 10, with LB1329, section 72, to reflect all amendments.

**Note:** Changes made by LB1284 became operative April 17, 2024. Changes made by LB1329 became effective July 19, 2024.

**79-8,151 Student loan repayment assistance; how paid; third-party vendor; contract authorized.**

(1) For applications approved prior to April 17, 2024, student loan repayment assistance awarded under the program may be applied to the principal amount of the loan and to interest that accrues. The repayment assistance shall be paid in one of the following three ways as directed by the applicant on his or her application:

(a) Directly to the lender or loan servicer that holds the outstanding balance of the student loan in one lump-sum payment;

(b) Directly to the lender or loan servicer that holds the outstanding balance of the student loan in monthly payments. Such monthly payments shall be made:

(i) In twelve equal payments; or

(ii) If requested by the applicant, in smaller amounts over a longer period of time, not to exceed twenty-four months. In such case, payments shall be equal for the first twelve months or until such time as the applicant's payment amount is recalculated by the lender or loan servicer and then, if adjusted, shall be equal for the next twelve-month period. Any unpaid funds at the end of twenty-four months may be requested to be paid in a lump-sum payment to the lender or loan servicer or shall be considered forfeited by the applicant. Applicants who are awarded repayment assistance in more than one year may have their awards divided across no more than one hundred twenty monthly payments under the program; or

(c) Directly to the applicant for the purpose of making the applicant's student loan payments. This subdivision shall only be available if the applicant is not in default on any student loan at the time of application. Any individual receiving repayment assistance under this subdivision must provide documentation that the full award was used for student loan payments when (i) applying for repayment assistance under the program in subsequent years and (ii) claiming an adjustment to federal adjusted gross income pursuant to section 77-2716. Such documentation shall be provided using a form prescribed by the department.

(2) The department may contract with a third-party vendor to administer the repayment assistance provided pursuant to the program.

**Source:** Laws 2022, LB1218, § 6; Laws 2024, LB1284, § 11.  
Operative date April 17, 2024.

**79-8,152 Program; amount; limitation.**

The total amount of student loan repayment assistance awarded pursuant to the program shall not exceed five million dollars in any fiscal year.

**Source:** Laws 2022, LB1218, § 7.

**79-8,153 Rules and regulations.**

The State Board of Education may adopt and promulgate rules and regulations to carry out the Teach in Nebraska Today Act.

**Source:** Laws 2022, LB1218, § 8.

**79-8,154 Grant; availability; amount; priorities.**

(1) Beginning on April 17, 2024, a grant under the program shall be available to an individual who applies for the grant and who:

- (a) Is a resident of the State of Nebraska;
- (b) Is teaching full-time or has a contract to teach full-time at the time of the application for the program;
- (c) Has taught in Nebraska five years or less at the time of the application or renewal; and
- (d) Has an individual income that is less than fifty-five thousand dollars per year.

(2) The amount of a grant awarded to an eligible applicant pursuant to this section shall be limited to five thousand dollars per year. An eligible applicant may be awarded a grant for up to five years.

(3) If the funds available for grants in any year are insufficient to provide grants to all eligible applicants described in subsection (1) of this section, the department shall establish priorities to award grants with renewal applications given priority over initial applications. For initial applications, priority shall be given to applicants who demonstrate financial need.

**Source:** Laws 2024, LB1284, § 9.  
Operative date April 17, 2024.

**ARTICLE 9**

**SCHOOL EMPLOYEES RETIREMENT SYSTEMS**

**Cross References**

**Constitutional provisions:**

For constitutional provisions relating to the investment of retirement funds, see Article XV, section 17, Constitution of Nebraska.  
**Investments of retirement funds**, corporate trustee, see section 30-3209.  
**Old age and survivors' insurance benefits**, see Chapter 68, article 6.  
**Spousal Pension Rights Act**, see section 42-1101.

(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

Section	
79-901.	Act, how cited.
79-902.	Terms, defined.
79-903.	Retirement system; established; purpose.

## SCHOOLS

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79-904.	School retirement system; administration; retirement board; powers and duties; rules and regulations.
79-904.01.	Board; power to adjust contributions and benefits; repayment of benefit; overpayment of benefits; investigatory powers; subpoenas.
79-905.	Retirement board; duties.
79-906.	Director; records; contents; employer education program.
79-907.	Statement of information; board; powers and duties.
79-908.	State Treasurer; duties.
79-909.	Auditor of Public Accounts; annual audit; report.
79-910.	Retirement system; membership; separate employment; effect.
79-910.01.	Retirement system; participation.
79-911.	Retirement system; emeritus member; retirement, when.
79-912.	Retirement system; employees previously electing nonmembership; election to hold membership; effect.
79-913.	Retirement system; membership; election of nonmembership; when.
79-914.	Repealed. Laws 2002, LB 407, § 67.
79-915.	Retirement system; membership; requirements; certain contemplated business transactions regarding retirement system participation; procedures; costs.
79-916.	Retirement system; membership; member of any other system; transfer of funds; when; Service Annuity Fund; created; use; investment.
79-917.	New employee; participation in another governmental plan; how treated.
79-918.	Repealed. Laws 2017, LB415, § 55.
79-919.	Retirement system; membership; employees of postsecondary schools excluded.
79-920.	Terms, defined; school plan, membership; participation; requirements; limitations on service.
79-921.	Retirement system; membership; termination; employer; duty; reinstatement; application for restoration of relinquished creditable service; payment required.
79-922.	Retiree; return to employment; effect; waiver of payments.
79-923.	Repealed. Laws 2017, LB415, § 55.
79-924.	Repurchase relinquished creditable service; credit for prior years of service; payment; rules and regulations; election; provisions applicable.
79-925.	Retirement system; prior member; repayment authorized; limitation.
79-926.	Retirement system; members; statement of service record; requirements for prior service credit; exception; reemployment; military service; credit; effect; applicability.
79-927.	Service credit; computation.
79-928.	Board; verify service record.
79-929.	Board; issue prior service certificate; modification.
79-930.	Member; separation from service; return to work; how treated.
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79-933.	Retirement; member; amount of allowance.
79-933.01.	Direct rollover; terms, defined; distributee; powers; board; powers.
79-933.02.	Retirement system; accept payments and rollovers; limitations; board; powers.
79-933.03.	Contributing member; credit for service in other schools; limitation; procedure; payment.
79-933.04.	Contributing member; credit for leave of absence; limitation; procedure; payment.
79-933.05.	Contributing member; credit for service in other schools; limitation; procedure; payment.
79-933.06.	Contributing member; credit for leave of absence; limitation; procedure; payment.
79-933.07.	Purchase of service credit or repurchase of relinquished creditable service; rules and regulations.
79-933.08.	Purchase of service credit within twelve months of retirement; agreement authorized.
79-933.09.	Retirement system; accept transfers; limitations; how treated.



## SCHOOL EMPLOYEES RETIREMENT SYSTEMS

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79-934.	Formula annuity retirement allowance; eligibility; formula; payment.
79-935.	Retirement; increase in benefits; when applicable.
79-936.	Repealed. Laws 1998, LB 1191, § 85.
79-937.	Repealed. Laws 1998, LB 1191, § 85.
79-938.	Retirement allowance; method of payment; election.
79-939.	Retirement system; benefits; paid by retirement board.
79-940.	Repealed. Laws 2011, LB 509, § 55.
79-941.	Total monthly benefit, defined; how computed.
79-942.	Supplemental retirement benefit; how computed.
79-943.	Supplemental retirement benefit; not applicable; when.
79-944.	Supplemental retirement benefit; receipt by beneficiary.
79-945.	Supplemental retirement benefit; receipt by beneficiary; duration.
79-946.	Retired Teachers Supplementary Benefits Fund; created; termination.
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79-947.01.	Repealed. Laws 2011, LB 509, § 55.
79-947.02.	Repealed. Laws 1999, LB 674, § 12.
79-947.03.	Repealed. Laws 2011, LB 509, § 55.
79-947.04.	Repealed. Laws 2011, LB 509, § 55.
79-947.05.	Repealed. Laws 2011, LB 509, § 55.
79-947.06.	Members prior to July 1, 2013; annual benefit adjustment; cost-of-living adjustment calculation method.
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79-948.	Retirement benefits; exemption from taxation and legal process; exception.
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79-952.	Retirement; disability; allowance; formula.
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79-957.	Termination of employment before retirement date; certified service record; statement of accumulated contributions; termination benefits, when.
79-958.	Employee; employer; required deposits and contributions.
79-959.	Account of member; credit with regular interest.
79-960.	Employer; deduction; remittances; fees; interest charge.
79-961.	Repealed. Laws 2000, LB 1192, § 28.
79-962.	Contract of employment; contents.
79-963.	Director; employer and employee; furnish information.
79-964.	Employer; pay to board; withholding of excess deduction.
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79-966.	School Retirement Fund; state deposits and transfers; amount; determination; contingent state deposit; how calculated; hearing.
79-966.01.	School Retirement Fund; annual actuarial valuations; powers and duties.
79-967.	Board; determine rates of benefits; adjustments; distribution of gains and savings.
79-968.	Retirement system; assets; funds; account; investment.
79-969.	Beneficiary designation; order of priority.
79-970.	Repealed. Laws 2002, LB 407, § 67.
79-971.	Accumulated contributions; use.
79-972.	Repealed. Laws 2002, LB 407, § 67.
79-972.01.	School Retirement Fund; created; use.

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- 79-973. Contingent Account; created; use.
- 79-974. Expense Fund; created; use.
- 79-975. Repealed. Laws 2002, LB 407, § 67.
- 79-976. Investment services; charges; report; state investment officer; duty.
- 79-977. School district expenditures; not exempt from limitations on spending.
- 79-977.01. Limitation of actions.
- 79-977.02. Retirement system contributions, income, property, and rights; how treated.
- 79-977.03. Termination of system or contributions; effect.
- (b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS
- 79-978. Terms, defined.
- 79-978.01. Act, how cited.
- 79-979. Class V school district; employees' retirement system; established.
- 79-979.01. Employees retirement system; transition and transfer of management and general administration; plan; consistent with work plan; powers and duties; costs, fees, and expenses.
- 79-979.02. Employees retirement system; immunity from liability, when.
- 79-980. Employees retirement system; administration; board of trustees; members; terms; vacancy; expenses; liability; termination; effect.
- 79-981. Employees retirement system; board of trustees; board of education; rules and regulations; transition of administration; employees compensation; records required; investment expenses.
- 79-982. Employees retirement system; board of trustees; meetings; duties; transition; termination.
- 79-982.01. Employees retirement system; board of trustees; board of education; fiduciaries; duties.
- 79-982.02. Employees retirement system; administration; transition; investment of assets; plan for transition of investment authority; contents; board of trustees; duties; costs, fees, and expenses; state investment officer; report.
- 79-983. Employees retirement system; administrator; appointment; termination; retirement system staff.
- 79-984. Employees retirement system; actuary; duties.
- 79-985. Employees retirement system; legal advisor.
- 79-986. Employees retirement system; State Treasurer as treasurer; when; school district; duties.
- 79-987. Employees retirement system; audits; cost; report; school district; reporting and filing requirements.
- 79-987.01. Contract of employment; contents.
- 79-988. Employees retirement system; membership; separate employment; effect.
- 79-988.01. Repealed. Laws 2016, LB447, § 54.
- 79-989. Employees retirement system; board of education; records available; administrator; powers and duties; information not considered public record.
- 79-990. Employees retirement system; time served in armed forces or on leave of absence; resignation for maternity purposes; effect.
- 79-991. Employees retirement system; member; prior service credit; how obtained.
- 79-992. Employees retirement system; termination of employment; refunds; reemployment; separation from service; return to work.
- 79-992.01. Termination of employment; employer; duties.
- 79-992.02. False or fraudulent claim or benefit application; prohibited acts; penalty.
- 79-993. Reemployment; repay contributions; limitation; effect.
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- 79-995. Reemployment; military service; leave of absence; contribution; limitation; effect.
- 79-996. Contributions; how paid.
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- 79-998. Additional service credits; accept payments and rollovers; limitations; how treated; tax consequences; direct transfer to retirement plan.
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- 79-9,100. Employees retirement system; formula retirement annuity; computation.
- 79-9,100.01. Employees retirement system; annuity reductions; when; computation.
- 79-9,101. Employees retirement system; annuity; election; remaining payments.
- 79-9,102. Employees retirement system; annuity or other benefit; limitations.
- 79-9,103. Annuity payment; cost-of-living adjustments; additional adjustments.
- 79-9,104. Employees retirement system; annuities; benefits; exempt from claims of creditors; exceptions.
- 79-9,105. Employees retirement system; member; disability; benefits.
- 79-9,106. Employees retirement system; member; death; effect; survivorship annuity; amount; direct transfer to retirement plan; death while performing qualified military service; additional death benefit.
- 79-9,107. Employees retirement system; funds; investment; violations; penalty.
- 79-9,108. Employees retirement system; funds; investment.
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- 79-9,110. Employees retirement system; investments; mortgages on real property, when.
- 79-9,111. Employees retirement system; investments; board of trustees; powers and duties; state investment officer; powers and duties.
- 79-9,112. Repealed. Laws 2001, LB 711, § 21.
- 79-9,113. Employees retirement system; required contributions; payment; membership service annuity; computations.
- 79-9,113.01. Employer; deduction; remittance; late fees; interest charge.
- 79-9,114. Employees retirement system; federal Social Security Act; agreement; coverage group.
- 79-9,115. Class V School Employees Retirement Fund; created; use; expenses; payment.
- 79-9,115.01. Class V School Expense Fund; created; use.
- 79-9,115.02. Class V School Expense Fund; Class V School Employees Retirement Fund; assets; investment.
- 79-9,116. Applicability of sections.
- 79-9,117. Preretirement planning program or sessions; for whom; required information; funding; attendance; fee.
- 79-9,118. Participation in retirement system; qualification.
- 79-9,119. Beneficiary designation; order of priority.
- 79-9,120. Legislative intent.
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- 79-9,122. Class V School Employees Retirement System Management Work Plan Fund; created; use; investment.
- 79-9,123. Work plan; billing for work; payment.
- 79-9,124. Work plan; additional examination and evaluation; by whom; contents; expenses; compliance audit report; additional issues; powers and duties.

## (a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

**79-901 Act, how cited.**

Sections 79-901 to 79-977.03 shall be known and may be cited as the School Employees Retirement Act.

**Source:** Laws 1991, LB 549, § 23; Laws 1993, LB 292, § 1; Laws 1994, LB 833, § 29; Laws 1995, LB 501, § 4; Laws 1996, LB 700, § 6; Laws 1996, LB 847, § 28; R.S.Supp., 1995, § 79-1501.01; Laws 1996, LB 900, § 536; Laws 1996, LB 1076, § 14; Laws 1997, LB 724, § 2; Laws 1998, LB 532, § 5; Laws 1998, LB 1191, § 44; Laws 2002, LB 407, § 21; Laws 2011, LB509, § 16; Laws 2013, LB553, § 2; Laws 2019, LB34, § 9; Laws 2024, LB198, § 7. Effective date March 19, 2024.

**79-902 Terms, defined.**

For purposes of the School Employees Retirement Act, unless the context otherwise requires:

(1) Accumulated contributions means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the School Retirement Fund together with regular interest thereon, compounded monthly, quarterly, semiannually, or annually;

(2)(a) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment.

(b) For a school employee hired before July 1, 2017, the determinations shall be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using twenty-five percent of the male table and seventy-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making these determinations except when a lump-sum settlement is made to an estate.

(c) For a school employee hired on or after July 1, 2017, or rehired on or after July 1, 2017, after termination of employment and being paid a retirement benefit or taking a refund of contributions, the determinations shall be based on a unisex mortality table and an interest rate specified by the board. Both the mortality table and the interest rate shall be recommended by the actuary and approved by the retirement board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table, interest rate, and actuarial factors in effect on the school employee's retirement date will be used to calculate actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate.

(d) If the lump-sum settlement is made to an estate, the interest rate will be determined by the AAA-rated segment of the Bloomberg Barclays Long U.S. Corporate Bond Index as of the prior June 30, rounded to the next lower quarter percent. If the AAA-rated segment of the Bloomberg Barclays Long U.S. Corporate Bond Index is discontinued or replaced, a substitute index shall be selected by the board which shall be a reasonably representative index;

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

(4)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year and includes (i) overtime pay, (ii) member retirement contributions, (iii) retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements, and (iv) amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(b) Compensation does not include (i) fraudulently obtained amounts as determined by the retirement board, (ii) amounts for accrued unused sick leave or accrued unused vacation leave converted to cash payments, (iii) insurance premiums converted into cash payments, (iv) reimbursement for expenses incurred, (v) fringe benefits, (vi) per diems paid as expenses, (vii) bonuses for services not actually rendered, (viii) early retirement inducements, (ix) cash awards, (x) severance pay, or (xi) employer contributions made for the purposes of separation payments made at retirement.

(c) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(5) County school official means (a) until July 1, 2000, the county superintendent or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate and (b) on or after July 1, 2000, the county superintendent, county school administrator, or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate;

(6)(a) Creditable service means prior service for which credit is granted under sections 79-926 to 79-929, service credit purchased under sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered while a contributing member of the retirement system; and

(b) Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the employee is paid regular wages as part of the employee's agreement with the employer. Creditable service does not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days, eligibility and vesting credit, service years for which member contributions are withdrawn and not repaid by the member, service rendered for which the retirement board determines that the member was paid less in compensation than the minimum wage as provided in the Wage and Hour Act, service which the board determines was rendered with the intent to defraud the retirement system, or service provided to an employer in a retirement system established pursuant to the Class V School Employees Retirement Act;

(7) Current benefit means the initial benefit increased by all adjustments made pursuant to the School Employees Retirement Act;

(8) Disability means an inability to engage in any substantially gainful activity by reason of any medically determinable physical or mental impairment which was initially diagnosed or became disabling while the member was an active participant in the plan and which can be expected to result in death or be of a long-continued and indefinite duration;

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

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

(11) Early retirement inducement means, but is not limited to:

(a) A benefit, bonus, or payment to a member in exchange for an agreement by the member to terminate from employment;

(b) A benefit, bonus, or payment paid to a member in addition to the member's retirement benefit;

(c) Lump-sum or installment cash payments, except payments for accrued unused leave converted to cash payments;

(d) An additional salary or wage component of any kind that is being paid as an incentive to leave employment and not for personal services performed for which creditable service is granted;

(e) Partial or full employer payment of a member's health, dental, life, or long-term disability insurance benefits or cash in lieu of such insurance benefits that extend beyond the member's termination of employment and contract of employment dates. This subdivision does not apply to any period during which the member is contributing to the retirement system and being awarded creditable service; and

(f) Any other form of separation payments made by an employer to a member at termination, including, but not limited to, purchasing retirement annuity contracts for the member pursuant to section 79-514, depositing money for the member in an account established under section 403(b) of the Internal Revenue Code except for payments for accrued unused leave, or purchasing service credit for the member pursuant to section 79-933.08;

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

(13) Emeritus member means a person (a) who has entered retirement under the act, including those persons who have retired since July 1, 1945, under any other regularly established retirement or pension system as contemplated by section 79-916, (b) who has thereafter been reemployed in any capacity by a public school, a Class V school district, or a school under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or a community college board of governors or has become a state school official or county school official subsequent to such retirement, and (c) who has applied to the board for emeritus membership in the retirement system. The school district or agency shall certify to the retirement board on forms prescribed by the retirement board that the annuitant was reemployed, rendered a service, and was paid by the district or agency for such services;

(14) Employer means the State of Nebraska or any subdivision thereof or agency of the state or subdivision authorized by law to hire school employees or to pay their compensation;

(15)(a) Final average compensation means:

(i) Except as provided in subdivision (ii) of this subdivision:

(A) The sum of the member's total compensation during the three twelve-month periods of service as a school employee in which such compensation was the greatest divided by thirty-six; or

(B) If a member has such compensation for less than thirty-six months, the sum of the member's total compensation in all months divided by the total number of months of his or her creditable service therefor; and

(ii) For an employee who became a member on or after July 1, 2013:

(A) The sum of the member's total compensation during the five twelve-month periods of service as a school employee in which such compensation was the greatest divided by sixty; or

(B) If a member has such compensation for less than sixty months, the sum of the member's total compensation in all months divided by the total number of months of his or her creditable service therefor.

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

(16) Fiscal year means any year beginning July 1 and ending June 30 next following;

(17) Hire date or date of hire means the first day of compensated service subject to retirement contributions;

(18) Initial benefit means the retirement benefit calculated at the time of retirement;

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

(20) Participation means qualifying for and making required deposits to the retirement system during the course of a plan year;

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

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

(23) Public school means any and all schools offering instruction in elementary or high school grades, as defined in section 79-101, which schools are supported by public funds and are wholly under the control and management of the State of Nebraska or any subdivision thereof, including (a) schools or other entities established, maintained, and controlled by the school boards of local school districts, except Class V school districts, (b) any educational service unit, and (c) any other educational institution wholly supported by public funds, except schools under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or the community college boards of governors for any community college areas;

(24) Regular employee means an employee hired by a public school or under contract in a regular full-time or part-time position who works a full-time or part-time schedule on an ongoing basis for twenty or more hours per week. An employee hired as described in this subdivision to provide service for less than twenty hours per week but who provides service for an average of twenty hours or more per week in each calendar month of any three calendar months of a plan year shall, beginning with the next full payroll period, commence contributions and shall be deemed a regular employee for all future employment with the same employer;

(25) Regular interest means interest fixed at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on July 1 of each year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(26) Relinquished creditable service means, with respect to a member who has withdrawn his or her accumulated contributions under section 79-955, the total amount of creditable service which such member has given up as a result of his or her election not to remain a member of the retirement system;

(27) Required beginning date means, for purposes of the deferral of distributions and the commencement of mandatory distributions pursuant to section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder, April 1 of the year following the calendar year in which a member:

(a)(i) Terminated employment with all employers participating in the plan; and

(ii)(A) Attained at least seventy and one-half years of age for a member who attained seventy and one-half years of age on or before December 31, 2019;

(B) Attained at least seventy-two years of age for a member who attained seventy and one-half years of age on or after January 1, 2020, and prior to January 1, 2023;

(C) Attained at least seventy-three years of age for a member who attained seventy-two years of age after December 31, 2022, and seventy-three years of age prior to January 1, 2033; or

(D) Attained at least seventy-five years of age for a member who attained seventy-four years of age after December 31, 2032; or

(b)(i) Terminated employment with all employers participating in the plan; and

(ii) Otherwise reached the date specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder;

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

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

(30) Retirement application means the form approved and provided by the retirement system for acceptance of a member's request for either regular or disability retirement;

(31) Retirement board or board means the Public Employees Retirement Board;

(32) Retirement date means (a) if the member has terminated employment, the first day of the month following the date upon which a member's request for retirement is received on a retirement application provided by the retirement system or (b) if the member has filed a retirement application but has not yet terminated employment, the first day of the month following the date on which the member terminates employment. An application may be filed no more than one hundred twenty days prior to the effective date of the member's initial benefit;

(33) Retirement system means the School Employees Retirement System of the State of Nebraska;

(34) Savings annuity means payments for life, made in equal monthly payments, derived from the accumulated contributions of a member;

(35) School employee means a contributing member who earns service credit pursuant to section 79-927. For purposes of this section, contributing member means the following persons who receive compensation from a public school: (a) Regular employees; (b) regular employees having retired pursuant to the School Employees Retirement Act who subsequently provide compensated service on a regular basis in any capacity; and (c) regular employees hired by a



public school on an ongoing basis to assume the duties of other regular employees who are temporarily absent. Substitute employees, temporary employees, and employees who have not attained the age of eighteen years shall not be considered school employees;

(36) School retirement allowance means the total of the savings annuity and the service annuity or formula annuity paid a person who has retired under sections 79-931 to 79-935. The monthly payments shall be payable at the end of each calendar month during the life of a retired member. The first payment shall include all amounts accrued since the effective date of the award of annuity. The last payment shall be at the end of the calendar month in which such member dies or in accordance with the payment option chosen by the member;

(37) School year means one fiscal year which includes not less than one thousand instructional hours or, in the case of service in the State of Nebraska prior to July 1, 1945, not less than seventy-five percent of the then legal school year;

(38) Service means employment as a school employee and shall not be deemed interrupted by (a) termination at the end of the school year of the contract of employment of an employee in a public school if the employee enters into a contract of employment in any public school, except a school in a Class V school district, for the following school year, (b) temporary or seasonal suspension of service that does not terminate the employee's employment, (c) leave of absence authorized by the employer for a period not exceeding twelve months, (d) leave of absence because of disability, or (e) military service when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under sections 79-951 to 79-953;

(39) Service annuity means payments for life, made in equal monthly installments, derived from appropriations made by the State of Nebraska to the retirement system;

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

(41) State school official means the Commissioner of Education and his or her professional staff who are required by law or by the State Department of Education to hold a certificate as such term is defined in section 79-807;

(42) Substitute employee means a person hired by a public school as a temporary employee to assume the duties of regular employees due to a temporary absence of any regular employees. Substitute employee does not mean a person hired as a regular employee on an ongoing basis to assume the duties of other regular employees who are temporarily absent;

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

(44) Temporary employee means an employee hired by a public school who is not a regular employee and who is hired to provide service for a limited period of time to accomplish a specific purpose or task. When such specific purpose or task is complete, the employment of such temporary employee shall terminate and in no case shall the temporary employment period exceed one year in duration;

(45)(a) Termination of employment or termination occurs on the date the member experiences a bona fide separation from service with the member's employer. The date of the separation is the end of the member's contractual agreement or, if there is no contract or only partial fulfillment of a contract, as determined by the employer.

(b) A member shall not be deemed to have incurred a termination of employment if the board determines based on the facts and circumstances that:

(i) A claimed termination was not a bona fide separation from service with the member's employer;

(ii) A member was compensated for a full contractual period when the member stopped working prior to the end date of the contract; or

(iii) A member prearranged a return to work that violates the provisions of the School Employees Retirement Act.

(c) A member who experiences a separation from service must comply with the return-to-work provisions of section 79-930 if the member is subsequently employed by an employer participating in the retirement system.

(d) Nothing in this subdivision precludes an employer from adopting a policy which limits or denies employees who have experienced a separation from service with the employer from working as a volunteer or substitute employee within one hundred eighty days after the employee experiences such separation from service; and

(46) Voluntary service or volunteer means providing bona fide unpaid service to any employer.

**Source:** Laws 1945, c. 219, § 1, p. 638; R.S.Supp.,1947, § 79-2901; Laws 1949, c. 256, § 435, p. 840; Laws 1953, c. 315, § 1, p. 1042; Laws 1961, c. 410, § 1, p. 1229; Laws 1963, c. 469, § 7, p. 1506; Laws 1963, c. 495, § 1, p. 1580; Laws 1965, c. 530, § 1, p. 1663; Laws 1965, c. 531, § 1, p. 1671; Laws 1967, c. 546, § 2, p. 1798; Laws 1969, c. 584, § 84, p. 2396; Laws 1969, c. 735, § 1, p. 2773; Laws 1971, LB 987, § 16; Laws 1975, LB 50, § 1; Laws 1984, LB 971, § 1; Laws 1985, LB 350, § 1; Laws 1986, LB 325, § 1; Laws 1986, LB 311, § 14; Laws 1987, LB 549, § 1; Laws 1988, LB 551, § 10; Laws 1988, LB 1170, § 1; Laws 1989, LB 506, § 9; Laws 1991, LB 549, § 24; Laws 1992, LB 1001, § 32; Laws 1994, LB 833, § 28; Laws 1996, LB 700, § 5; Laws 1996, LB 847, § 27; R.S.1943, (1994), § 79-1501; Laws 1996, LB 900, § 537; Laws 1996, LB 1076, § 13; Laws 1996, LB 1273, § 23; Laws 1997, LB 347, § 26; Laws 1997, LB 623, § 12; Laws 1997, LB 624, § 16; Laws 1997, LB 724, § 3; Laws 1998, LB 1191, § 45; Laws 1999, LB 272, § 91; Laws 1999, LB 538, § 1; Laws 1999, LB 674, § 3; Laws 2000, LB 1192, § 9; Laws 2001, LB 408, § 13; Laws 2002, LB 407, § 22; Laws 2003, LB 451, § 18; Laws 2005, LB 329, § 2; Laws 2005, LB 364, § 8; Laws 2005, LB 503, § 8; Laws 2006, LB

1019, § 8; Laws 2010, LB950, § 11; Laws 2011, LB509, § 17; Laws 2012, LB916, § 19; Laws 2013, LB263, § 13; Laws 2013, LB553, § 3; Laws 2014, LB1042, § 1; Laws 2015, LB446, § 1; Laws 2016, LB790, § 4; Laws 2017, LB415, § 24; Laws 2018, LB1005, § 18; Laws 2019, LB34, § 10; Laws 2020, LB1054, § 7; Laws 2021, LB147, § 3; Laws 2022, LB700, § 5; Laws 2023, LB103, § 8; Laws 2024, LB198, § 8.

Effective date March 19, 2024.

#### Cross References

**Class V School Employees Retirement Act**, see section 79-978.01.

**Public Employees Retirement Board**, see sections 84-1501 to 84-1513.

**Spousal Pension Rights Act**, see section 42-1101.

**Wage and Hour Act**, see section 48-1209.

Disability as defined in subsection (37) of this section has two components: (1) The individual must have a physical or mental impairment of the nature described, and (2) by reason of the impairment, the individual must be unable to engage in a substantially gainful activity. *Shepherd v. Chambers*, 281 Neb. 57, 794 N.W.2d 678 (2011).

Statutory plan of retirement complete within itself is provided. *Ledwith v. Bankers Life Ins. Co.*, 156 Neb. 107, 54 N.W.2d 409 (1952).

### **79-903 Retirement system; established; purpose.**

A school retirement system is hereby established for the purpose of providing retirement allowances or other benefits for the school employees of the State of Nebraska as provided in the School Employees Retirement Act. It shall have the powers and privileges of a corporation, insofar as may be necessary to carry out the act, shall be known as the School Employees Retirement System of the State of Nebraska, and by such name shall transact all business as provided in the act.

**Source:** Laws 1945, c. 219, § 2, p. 640; R.S.Supp.,1947, § 79-2902; Laws 1949, c. 256, § 436, p. 842; Laws 1967, c. 486, § 41, p. 1530; Laws 1969, c. 584, § 85, p. 2400; Laws 1969, c. 735, § 2, p. 2777; Laws 1971, LB 987, § 17; Laws 1991, LB 549, § 25; R.S.1943, (1994), § 79-1502; Laws 1996, LB 900, § 538; Laws 2011, LB509, § 18.

#### Cross References

For retirement system for employees of Class V school districts, see the Class V School Employees Retirement Act, section 79-978.01.

### **79-904 School retirement system; administration; retirement board; powers and duties; rules and regulations.**

The general administration of the retirement system, except the investment of funds, is hereby vested in the retirement board. The board may, by a majority vote of its members, adopt bylaws and adopt and promulgate rules and regulations, from time to time, to carry out the School Employees Retirement Act. The board shall perform such other duties as may be required to execute the act.

**Source:** Laws 1945, c. 219, § 3, p. 640; R.S.Supp.,1947, § 79-2903; Laws 1949, c. 256, § 437, p. 842; Laws 1967, c. 486, § 42, p. 1530; Laws 1969, c. 584, § 86, p. 2400; Laws 1971, LB 987, § 18; Laws 1991, LB 549, § 26; Laws 1995, LB 369, § 5; Laws 1996, LB 847, § 29; R.S.Supp.,1995, § 79-1503; Laws 1996, LB 900, § 539; Laws 2011, LB509, § 19; Laws 2018, LB1005, § 19.

**79-904.01 Board; power to adjust contributions and benefits; repayment of benefit; overpayment of benefits; investigatory powers; subpoenas.**

(1)(a) If the board determines that the retirement system has previously received contributions or distributed benefits which for any reason are not in accordance with the statutory provisions of the School Employees Retirement Act, the board may refund contributions, require additional contributions, adjust benefits, or require repayment of benefits paid. In the event of an overpayment of a benefit, the board may, in addition to other remedies, offset future benefit payments by the amount of the prior overpayment, together with regular interest thereon. In the event of a material underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest.

(b) The board shall have the power, through the director of the Nebraska Public Employees Retirement Systems or the director's designee, to make a thorough investigation of any overpayment of a benefit, when in the judgment of the retirement system such investigation is necessary, including, but not limited to, circumstances in which benefit payments are made after the death of a member or beneficiary and the retirement system is not made aware of such member's or beneficiary's death. In connection with any such investigation, the board, through the director or the director's designee, shall have the power to compel the attendance of witnesses and the production of books, papers, records, and documents, whether in hardcopy, electronic form, or otherwise, and issue subpoenas for such purposes. Such subpoenas shall be served in the same manner and have the same effect as subpoenas from district courts.

(2) If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 79-933, such member shall repay the benefit to the retirement system.

(3) The board may adopt and promulgate rules and regulations implementing this section, which shall include, but not be limited to, the following: (a) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (b) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment of contributions or benefits; and (c) notice provided to all affected persons. All notices shall be sent at the time of or prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

(4) The board shall not refund contributions made on compensation in excess of the limitations imposed by subdivision (4) of section 79-902 or subsection (9) of section 79-934.

**Source:** Laws 1996, LB 1076, § 30; Laws 2011, LB509, § 20; Laws 2013, LB263, § 14; Laws 2015, LB40, § 9; Laws 2015, LB446, § 2; Laws 2016, LB790, § 5; Laws 2017, LB415, § 25; Laws 2018, LB1005, § 20.

**79-905 Retirement board; duties.**

It shall be the duty of the retirement board to:

- (1) Determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of dispute between an individual and a department;
- (2) Adopt rules and regulations, as the board may deem necessary, for the management of the board;
- (3) Prescribe the form in which employers report contributions, hours worked by school employees, payroll information, and other information necessary to carry out the board's duties;
- (4) Keep a complete record of all proceedings taken at any meeting of the board;
- (5) Employ a director and such assistants and employees as may be necessary in the performance of its duties; and
- (6) Obtain actuarial services pursuant to subdivision (2)(e) of section 84-1503.

**Source:** Laws 1967, c. 546, § 3, p. 1801; Laws 1969, c. 584, § 87, p. 2401; Laws 1991, LB 549, § 27; Laws 1995, LB 502, § 2; R.S.Supp.,1995, § 79-1503.01; Laws 1996, LB 900, § 540; Laws 1998, LB 1191, § 46; Laws 2000, LB 1192, § 10; Laws 2018, LB1005, § 21.

**79-906 Director; records; contents; employer education program.**

(1) The director in charge of the retirement system shall keep a complete record of all members with respect to name, current address, age, contributions, and any other facts as may be necessary in the administration of the School Employees Retirement Act. The information in the records shall be provided by the employer in an accurate and verifiable form, as specified by the director. The director shall, from time to time, carry out testing procedures pursuant to section 84-1512 to verify the accuracy of such information. For the purpose of obtaining such facts and information, the director shall have access to the records of the various employers and state departments and agencies and the holder of the records shall comply with a request by the director for access by providing such facts and information to the director in a timely manner. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

(2) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so that all employers have the knowledge and information necessary to prepare and file reports as the board requires.

**Source:** Laws 1991, LB 549, § 28; R.S.1943, (1994), § 79-1503.02; Laws 1996, LB 900, § 541; Laws 2000, LB 1192, § 11; Laws 2005, LB 364, § 9; Laws 2005, LB 503, § 9; Laws 2012, LB916, § 20.

**79-907 Statement of information; board; powers and duties.**

(1)(a) On or before October 1, 2001, and at least every two years thereafter, the retirement board shall send to each contributing member of the retirement system by first-class mail, a statement of creditable service, reported salary, and other such information as is determined by the director of the Nebraska Public Employees Retirement Systems to be necessary in calculating the member's retirement benefit.

(b) If the member requests a modification or correction of his or her statement of information, the member shall provide documentation to the board supporting such modification or correction and provide clear and convincing evidence that the statement is in error. The board shall, within sixty days after receipt of the documentation supporting the modification or correction, determine whether the member has proven by clear and convincing evidence that the statement shall be modified or corrected. If the board determines that the member has provided clear and convincing evidence, the board shall modify or correct the statement. If the board determines that the member has not provided clear and convincing evidence, the board shall deny the modification or correction. In either case, the board shall notify the member. The member may appeal the decision of the board pursuant to section 79-950.

(c) The board has an ongoing fiduciary duty to modify or correct a member's statement if the board discovers an error in the information it has on record. A modification or correction shall be made within sixty days after the error is brought to the attention of the board.

(2) The board may adopt and promulgate rules and regulations and prescribe the necessary forms to carry out this section.

**Source:** Laws 1998, LB 1191, § 47; Laws 2000, LB 1192, § 12; Laws 2004, LB 961, § 1; Laws 2005, LB 144, § 1; Laws 2018, LB1005, § 22.

#### **79-908 State Treasurer; duties.**

The State Treasurer shall be the custodian of the funds and securities of the retirement system and may deposit the funds and securities in any financial institution approved by the Nebraska Investment Council. All disbursements therefrom shall be paid by him or her only upon vouchers signed by a person authorized by the retirement board. The State Treasurer shall transmit monthly to the board a detailed statement showing all credits to and disbursements from the funds in his or her custody belonging to the retirement system.

**Source:** Laws 1945, c. 219, § 6, p. 641; R.S.Supp.,1947, § 79-2906; Laws 1949, c. 256, § 440, p. 843; R.S.1943, (1994), § 79-1506; Laws 1996, LB 900, § 543; Laws 1997, LB 623, § 13.

#### **79-909 Auditor of Public Accounts; annual audit; report.**

The Auditor of Public Accounts shall make an annual audit of the retirement system and submit electronically an annual report to the Clerk of the Legislature of its condition. Each member of the Legislature shall receive an electronic copy of such report by making a request for it to the Auditor of Public Accounts. Expenses of the audit shall be paid from the Expense Fund.

**Source:** Laws 1945, c. 219, § 8, p. 641; R.S.Supp.,1947, § 79-2908; Laws 1949, c. 256, § 442, p. 843; Laws 1967, c. 546, § 4, p. 1802; Laws 1971, LB 987, § 20; Laws 1979, LB 322, § 38; R.S.1943, (1994), § 79-1508; Laws 1996, LB 900, § 544; Laws 2012, LB782, § 155.

#### **79-910 Retirement system; membership; separate employment; effect.**

(1) The membership of the retirement system shall be composed of (a) all persons who have an account in the School Retirement Fund, (b) all school

employees who on or after July 1, 2002, must participate in the retirement system pursuant to section 79-910.01 and who have begun participation in the retirement system, and (c) emeritus members. The membership of the retirement system does not include persons described in sections 79-915 and 79-919 who are specifically excluded from membership in the retirement system.

(2) The membership of the retirement system also includes any person who prior to July 1, 2002, qualified for membership as follows: (a) All persons who become school employees after September 1, 1945, except those specifically excluded under sections 79-916 and 79-919, shall become members as soon as they become senior school employees, as senior school employee was defined in section 79-902 prior to July 1, 2002; (b) senior school employees on July 1, 1945, except those specifically excluded in sections 79-916 and 79-919, shall be members of the retirement system as of July 1, 1945, unless prior to October 1, 1945, any such employee shall have filed with the retirement board and with his or her employer a notice of his or her election not to be included in the membership of the system and a duly executed waiver of all the present and prospective benefits which would otherwise inure to him or her on account of his or her membership in the retirement system; and (c) emeritus members.

(3) Any school employee who qualifies for membership in the retirement system pursuant to subsection (1) or (2) of this section may not be disqualified from membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public retirement system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

**Source:** Laws 1945, c. 219, § 9, p. 642; R.S.Supp., 1947, § 79-2909; Laws 1949, c. 256, § 443, p. 844; Laws 1951, c. 291, § 1, p. 964; Laws 1953, c. 315, § 2, p. 1045; Laws 1976, LB 30, § 1; Laws 1976, LB 673, § 2; Laws 1977, LB 349, § 1; Laws 1979, LB 391, § 5; Laws 1987, LB 549, § 2; R.S. 1943, (1994), § 79-1509; Laws 1996, LB 900, § 545; Laws 1997, LB 624, § 17; Laws 2002, LB 407, § 23.

#### **79-910.01 Retirement system; participation.**

(1) Each person employed by a public school who is a school employee and who is qualified to participate in the retirement system shall participate in the retirement system.

(2) Public schools shall ensure that all school employees who qualify for participation pursuant to this section shall begin annual participation on July 1 of each plan year or upon such person's date of hire, if later than July 1, and that all required deposits are made on behalf of such employees.

**Source:** Laws 2002, LB 407, § 26; Laws 2010, LB 950, § 12.

#### **79-911 Retirement system; emeritus member; retirement, when.**

Any emeritus member may retire upon his or her application to the retirement board, to be effective upon the termination of his or her employment in any public school or in any position covered by the retirement system.

**Source:** Laws 1953, c. 315, § 3, p. 1046; R.S. 1943, (1994), § 79-1509.01; Laws 1996, LB 900, § 546; Laws 2000, LB 1192, § 13.

**79-912 Retirement system; employees previously electing nonmembership; election to hold membership; effect.**

All school employees not required to hold a certificate, diploma, or credentials to practice in a professional capacity who had previously elected not to be included in the retirement system pursuant to section 79-910 may, after January 1, 1978, and prior to July 1, 1978, file with the retirement board an election to be included in the membership of the retirement system, but such employees shall be treated as new employees and no service credit shall be granted for the years the employees elected out of the retirement system.

**Source:** Laws 1977, LB 349, § 2; Laws 1991, LB 549, § 29; R.S.1943, (1994), § 79-1509.02; Laws 1996, LB 900, § 547.

**79-913 Retirement system; membership; election of nonmembership; when.**

All school employees not required to hold a certificate, diploma, or credentials to practice in a professional capacity who are employed after January 1, 1978, and prior to July 1, 1978, shall have until June 30, 1978, to file with the retirement board an election not to be included in the membership of the retirement system established pursuant to the School Employees Retirement Act. The election shall be in writing on forms prescribed by the retirement board, and any person so electing waives all rights within the system except to a refund of his or her accumulated contributions. All such employees employed on or after July 1, 1978, shall become members of such retirement system as soon as they are employed and shall not have a right to elect out of such retirement system.

**Source:** Laws 1977, LB 349, § 3; R.S.1943, (1994), § 79-1509.03; Laws 1996, LB 900, § 548.

**79-914 Repealed. Laws 2002, LB 407, § 67.****79-915 Retirement system; membership; requirements; certain contemplated business transactions regarding retirement system participation; procedures; costs.**

(1) Persons residing outside of the United States and engaged temporarily as school employees in the State of Nebraska shall not become members of the retirement system.

(2) No school employee shall be authorized to participate in the retirement system provided for in the School Employees Retirement Act unless the employee is a United States citizen or is lawfully present in the United States. The employing public school and the school employee shall maintain at least one of the following documents which shall be unexpired, if applicable to the particular document, to demonstrate United States citizenship or lawful presence in the United States as of the employee's date of hire and produce any such document so maintained upon request of the retirement board or the Nebraska Public Employees Retirement Systems:

(a) A state-issued driver's license;

(b) A state-issued identification card;

(c) A certified copy of a birth certificate or delayed birth certificate issued in any state, territory, or possession of the United States;



(d) A Consular Report of Birth Abroad issued by the United States Department of State;

(e) A United States passport;

(f) A foreign passport with a United States visa;

(g) A United States Certificate of Naturalization;

(h) A United States Certificate of Citizenship;

(i) A tribal certificate of Native American blood or similar document;

(j) A United States Citizenship and Immigration Services Employment Authorization Document, Form I-766;

(k) A United States Citizenship and Immigration Services Permanent Resident Card, Form I-551; or

(l) Any other document issued by the United States Department of Homeland Security or the United States Citizenship and Immigration Services granting employment authorization in the United States and approved by the retirement board.

(3)(a) The board may determine that a governmental entity currently participating in the retirement system no longer qualifies, in whole or in part, under section 414(d) of the Internal Revenue Code as a participating employer in a governmental plan.

(b)(i) To aid governmental entities in their business decisionmaking process, any governmental entity currently participating in the retirement system contemplating a business transaction that may result in such entity no longer qualifying, in whole or in part, under section 414(d) of the Internal Revenue Code may notify the board in writing as soon as reasonably practicable, but no later than one hundred eighty days before the transaction is to occur.

(ii) The board when timely notified shall, as soon as is reasonably practicable, obtain from its contracted actuary the cost of any actuarial study necessary to determine the potential funding obligation. The board will notify the entity of such cost.

(iii) If such entity pays the board's contracted actuary pursuant to subdivision (3)(c)(vi) of this section for any actuarial study necessary to determine the potential funding obligation, the board shall, as soon as reasonably practicable following its receipt of the actuarial study, (A) determine whether the entity's contemplated business transaction will cause the entity to no longer qualify under section 414(d) of the Internal Revenue Code, (B) determine whether the contemplated business transaction constitutes a plan termination by the entity, (C) determine the potential funding obligation, (D) determine the administrative costs that will be incurred by the board or the Nebraska Public Employees Retirement Systems in connection with the entity's removal from the retirement system, and (E) notify the entity of such determinations.

(iv) Failure to timely notify the board pursuant to subdivision (3)(b)(i) of this section may result in the entity being treated as though the board made a decision pursuant to subdivision (3)(a) of this section.

(c) If the board makes a determination pursuant to subdivision (3)(a) of this section, or if the entity engages in the contemplated business transaction reviewed under subdivision (3)(b) of this section that results in the entity no longer qualifying under section 414(d) of the Internal Revenue Code:

(i) The board shall notify the entity that it no longer qualifies under section 414(d) of the Internal Revenue Code within ten business days after the determination;

(ii) The affected plan members shall be immediately considered fully vested;

(iii) The affected plan members shall become inactive within ninety days after the board's determination;

(iv) The entity shall pay to the School Retirement Fund an amount equal to any funding obligation;

(v) The entity shall pay to the Expense Fund an amount equal to any administrative costs incurred by the board or the Nebraska Public Employees Retirement Systems in connection with the entity's removal from the retirement system; and

(vi) The entity shall pay directly to the board's contracted actuary an amount equal to the cost of any actuarial study necessary to aid the board in determining the amount of such funding obligation, if not previously paid.

(d) For purposes of this subsection:

(i) Business transaction means a merger; consolidation; sale of assets, equipment, or facilities; termination of a division, department, section, or subgroup of the entity; or any other business transaction that results in termination of some or all of the entity's workforce; and

(ii) Funding obligation means the financial liability of the retirement system to provide benefits for the affected plan members incurred by the retirement system due to the entity's business transaction calculated using the methodology and assumptions recommended by the board's contracted actuary and approved by the board. The methodology and assumptions used must be structured in a way that ensures the entity is financially liable for all the costs of the entity's business transaction, and the retirement system is not financially liable for any of the cost of the entity's business transaction.

(e) The board may adopt and promulgate rules and regulations to carry out this subsection including, but not limited to, the methods of notifying the board of pending business transactions, the acceptable methods of payment, and the timing of such payment.

**Source:** Laws 1945, c. 219, § 11, p. 642; R.S.Supp.,1947, § 79-2911; Laws 1949, c. 256, § 445, p. 845; R.S.1943, (1994), § 79-1511; Laws 1996, LB 900, § 550; Laws 2010, LB950, § 13; Laws 2018, LB1005, § 23; Laws 2024, LB198, § 10.

Effective date March 19, 2024.

**79-916 Retirement system; membership; member of any other system; transfer of funds; when; Service Annuity Fund; created; use; investment.**

(1)(a) On July 1, 2004, the board shall transfer from the School Retirement Fund to the Service Annuity Fund an amount equal to the funded ratio of the retirement system which is equal to the market value of the retirement system assets divided by the actuarial accrued liability of the retirement system, times the actuarial accrued liability of the service annuity, as determined pursuant to section 79-966.01, of the employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act. Beginning July 1, 2013, such actuarial accrued liability shall be determined for each employee on a level percentage of salary basis. On or before July 1 of each

fiscal year, the state shall transfer into the Service Annuity Fund such amounts as may be necessary to pay the normal cost and amortize the unfunded actuarial accrued liability of the service annuity, as determined pursuant to section 79-966.01, as of the end of the previous fiscal year of the employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act. Based on the fiscal year of the retirement system established pursuant to the Class V School Employees Retirement Act, the administrator of such system shall provide all membership information needed for the actuary engaged by the retirement board to determine the normal cost and the amortization payment of the unfunded actuarial accrued liability, as determined pursuant to section 79-966.01, to be paid by the state to the Service Annuity Fund each fiscal year as required by this subdivision.

(b) At the time of retirement of any employee who is a member of the retirement system established pursuant to the Class V School Employees Retirement Act and who was hired prior to July 1, 2016, the retirement board shall, upon receipt of a certification of the administrator of such retirement system of the name, identification number, date of birth, retirement date, last date of employment, type of retirement, and number of years of service credited to such eligible employee at the date of retirement, transfer from the Service Annuity Fund to the Class V school district for transfer to the retirement system the actuarial accrued liability of the service annuity to be paid to the Class V school district by the state for transfer to the eligible employee for the years of service thus certified as provided for members of the School Employees Retirement System of the State of Nebraska under sections 79-933 and 79-952. Such transfer of the actuarial accrued liability to the Class V school district for transfer to the retirement system established pursuant to the Class V School Employees Retirement Act shall be in lieu of the payment of the service annuity to which the employee would be entitled.

(c) The Service Annuity Fund is created. The fund shall consist of the amounts paid by the state and transferred from the School Retirement Fund to the Class V school district for transfer to the retirement system pursuant to this section to pay the service annuity to the Class V school district for transfer to employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act. Any money in the Service Annuity Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) In addition to the transfer of the actuarial accrued liability of the service annuity pursuant to subsection (1) of this section, the state shall also transfer to the funds of the Class V school district for transfer to the district's retirement system an amount determined by multiplying the compensation of all members of such retirement system by the percent specified in subsection (2) of section 79-966 for determining the amount of the state's payment to the School Retirement Fund plus the amount determined under subdivision (1)(b) of section 79-966. The transfer shall be made annually on or before July 1 of each fiscal year.

**Source:** Laws 1945, c. 219, § 12, p. 642; R.S.Supp., 1947, § 79-2912; Laws 1949, c. 256, § 446, p. 845; Laws 1951, c. 292, § 1, p. 970; Laws 1965, c. 530, § 2, p. 1667; Laws 1967, c. 547, § 2, p. 1810; Laws 1967, c. 546, § 5, p. 1802; Laws 1969, c. 735, § 3, p. 2777; Laws 1971, LB 987, § 21; Laws 1984, LB 457, § 1; Laws 1987, LB 549,

§ 3; Laws 1988, LB 1170, § 2; Laws 1991, LB 549, § 30; R.S. 1943, (1994), § 79-1512; Laws 1996, LB 900, § 551; Laws 1997, LB 623, § 14; Laws 1998, LB 1191, § 48; Laws 2002, LB 407, § 24; Laws 2004, LB 1097, § 23; Laws 2011, LB509, § 21; Laws 2013, LB553, § 4; Laws 2016, LB447, § 8; Laws 2021, LB147, § 4.

**Cross References**

**Class V School Employees Retirement Act**, see section 79-978.01.

**Nebraska Capital Expansion Act**, see section 72-1269.

**Nebraska State Funds Investment Act**, see section 72-1260.

**79-917 New employee; participation in another governmental plan; how treated.**

Within the first one hundred eighty days of employment, a school employee may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time or a part-time employee as defined in the Nebraska governmental plan in which the credit was earned. Such credit shall not be included as years of service in the benefit calculation. The board may adopt and promulgate rules and regulations governing the assessment and granting of eligibility and vesting credit.

**Source:** Laws 1995, LB 501, § 5; R.S.Supp.,1995, § 79-1514.10; Laws 1996, LB 900, § 552; Laws 2000, LB 1192, § 14; Laws 2002, LB 407, § 25; Laws 2013, LB263, § 15.

**79-918 Repealed. Laws 2017, LB415, § 55.**

**79-919 Retirement system; membership; employees of postsecondary schools excluded.**

Any person who is employed by the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or a community college board of governors shall not come under the provisions of the School Employees Retirement Act.

**Source:** Laws 1945, c. 219, § 13, p. 643; R.S.Supp.,1947, § 79-2913; Laws 1949, c. 256, § 447, p. 845; Laws 1971, LB 987, § 22; Laws 1991, LB 549, § 31; R.S.1943, (1994), § 79-1513; Laws 1996, LB 900, § 554; Laws 1996, LB 1076, § 15.

**79-920 Terms, defined; school plan, membership; participation; requirements; limitations on service.**

(1) For purposes of this section:

(a) Association means the State Code Agency Teachers Association, or its equivalent successor, recognized by the State of Nebraska as the exclusive and sole collective-bargaining agent for all teachers other than temporary teachers employed by an agency of the State of Nebraska;

(b) Eligible school plan state employee means an individual who satisfies all school plan eligibility criteria and who is (i) an individual employed by the State Department of Education after July 1, 1989, as a state school official, (ii) an individual who is employed by any state agency in a position covered by the

association and who is required to hold a certificate as defined in section 79-807 for the position in which such individual is employed, or (iii) an individual who is employed by any state agency not in a position covered by the association who is required to hold a certificate as defined in section 79-807 for the position in which such individual is employed;

(c) School plan means the School Employees Retirement System of the State of Nebraska;

(d) State agency school plan employer means the State Department of Education or another agency of the State of Nebraska with employees covered by the association; and

(e) State plan means the State Employees Retirement System of the State of Nebraska.

(2)(a) Except as provided in subsection (3) of this section, an individual shall become or remain a member of the school plan if:

(i) Such individual is or was previously a school employee or was employed in an out-of-state school district or a Class V school district; and

(ii) Such individual becomes an eligible school plan state employee with a state agency school plan employer.

(b) An individual who is required to participate in the school plan pursuant to subdivision (2)(a) of this section shall not be deemed to have terminated employment for school plan purposes if such individual subsequently provides service to any employer participating in the school plan, including any school district or educational service unit, or any state agency school plan employer, within one hundred eighty days after ceasing employment except an individual may be permitted to provide intermittent work as a volunteer or substitute employee at a school district or an educational service unit as described in subdivision (2)(a) of section 79-930.

(c) An individual who is required to participate in the school plan pursuant to subdivision (2)(a) of this section shall not render any service to another agency of the State of Nebraska within one hundred twenty days after ceasing employment.

(3)(a) An individual shall participate in the state plan if:

(i) The individual has never previously participated in the school plan while employed as an eligible school plan state employee with a state agency school plan employer;

(ii) The individual terminated employment with a school district or an educational service unit participating in the school plan and retired or took a distribution pursuant to the School Employees Retirement Act; and

(iii) The individual's employment as an eligible school plan state employee with a state agency school plan employer began or will begin within one hundred eighty days after termination of employment with the school district or educational service unit.

(b) An individual who is required to participate in the state plan pursuant to subdivision (3)(a) of this section shall not be deemed to have terminated employment for state plan purposes if such individual subsequently provides service to any employer participating in the state plan, including any state agency school plan employer or an agency of the State of Nebraska, within one hundred twenty days after ceasing employment. No such individual shall be

permitted to provide intermittent work as a volunteer or substitute employee as described in subdivision (2)(a) of section 79-930 to any employer participating in the school plan for at least one hundred twenty days after ceasing employment.

(4) An individual who previously elected to participate in the school plan prior to March 4, 2022, while employed as a state school official and who terminated employment and retired or took a distribution pursuant to the School Employees Retirement Act, shall not render any service to:

(a) A school district or an educational service unit participating in the school plan or a state agency school plan employer within one hundred eighty days after terminating employment except for intermittent work as a volunteer or substitute employee as described in subdivision (2)(a) of section 79-930; or

(b) Another agency of the State of Nebraska within one hundred twenty days after terminating employment.

**Source:** Laws 1980, LB 818, § 2; Laws 1986, LB 325, § 13; Laws 1986, LB 311, § 22; Laws 1989, LB 506, § 12; R.S.1943, (1994), § 79-1565; Laws 1996, LB 900, § 555; Laws 1997, LB 623, § 15; Laws 2010, LB950, § 14; Laws 2011, LB509, § 22; Laws 2022, LB700, § 6; Laws 2023, LB103, § 9; Laws 2024, LB198, § 11. Effective date March 19, 2024.

**79-921 Retirement system; membership; termination; employer; duty; reinstatement; application for restoration of relinquished creditable service; payment required.**

(1) The membership of any person in the retirement system shall cease only if he or she (a) withdraws his or her accumulated contributions under section 79-955, (b) retires on a school or formula or disability retirement allowance, or (c) dies.

(2)(a) The employer shall notify the board in writing of the date upon which a termination of employment has occurred and provide the board with such information as the board deems necessary.

(b) The board may adopt and promulgate rules and regulations and prescribe forms as the board determines appropriate in order to carry out this subsection and to ensure full disclosure and reporting by the employer and member in order to minimize fraud and abuse and prevent the filing of false or fraudulent claim or benefit applications.

(3)(a) A former member of the retirement system who has withdrawn his or her accumulated contributions under section 79-955 shall be reinstated to membership in the retirement system if such person again becomes a school employee.

(b) The date of such membership shall relate back to the beginning of his or her original membership in the retirement system only if such school employee has repaid all amounts required in accordance with subsection (4) of this section. Unless and until all such amounts are repaid, the school employee shall be considered a new member, effective as of the date he or she again becomes a school employee.

(4)(a) With respect to any person who is reinstated to membership in the retirement system pursuant to subdivision (3)(a) of this section prior to April 17, 2014, and who files a valid and complete one-time application with the

retirement board for the restoration of part or all of his or her relinquished creditable service prior to six years after April 17, 2014, but prior to termination, the following shall apply:

(i) Such member shall pay to the retirement system an amount equal to the previously withdrawn contributions for the creditable service to be restored, plus an amount equal to the actuarial assumed rate of return on such amount to the date of repayment; and

(ii) Payment for restoration of such relinquished creditable service must be completed within seven years of April 17, 2014, or prior to termination, whichever is earlier.

(b) With respect to any person who is reinstated to membership in the retirement system pursuant to subdivision (3)(a) of this section on and after April 17, 2014, and who files a valid and complete one-time application with the retirement board for the restoration of part or all of his or her relinquished creditable service within five years after the date of such member's reinstatement to membership in the retirement system but prior to termination, the following shall apply:

(i) Such member shall pay to the retirement system an amount equal to the previously withdrawn contributions for the creditable service to be restored, plus an amount equal to the actuarial assumed rate of return on such amount to the date of repayment; and

(ii) Payment for restoration of such relinquished creditable service must be completed within five years of the date of such member's reinstatement to membership in the retirement system or prior to termination, whichever is earlier.

(5)(a) If less than full payment is made by the member, relinquished creditable service shall be restored in proportion to the amounts repaid.

(b) Repayment may be made through direct payment, installment payments, an irrevocable payroll deduction authorization, cash rollover contributions pursuant to section 79-933.02, or trustee-to-trustee transfers pursuant to section 79-933.09, except that if the application for the restoration of part or all of the relinquished creditable service is received by the retirement system within one year before the member's termination date or the applicable last payment date as specified in subsection (4) of this section, whichever is earlier, repayment may only be made through a lump-sum direct payment, cash rollover contributions pursuant to section 79-933.02, or trustee-to-trustee transfers pursuant to section 79-933.09.

**Source:** Laws 1945, c. 219, § 14, p. 643; R.S.Supp., 1947, § 79-2914; Laws 1949, c. 256, § 448, p. 845; Laws 1969, c. 735, § 4, p. 2778; Laws 1986, LB 311, § 16; Laws 1986, LB 325, § 2; R.S. 1943, (1994), § 79-1514; Laws 1996, LB 900, § 556; Laws 1996, LB 1076, § 16; Laws 1997, LB 623, § 16; Laws 1997, LB 624, § 18; Laws 1999, LB 703, § 9; Laws 2001, LB 408, § 14; Laws 2004, LB 1097, § 24; Laws 2013, LB263, § 16; Laws 2014, LB1042, § 2; Laws 2017, LB415, § 26; Laws 2019, LB34, § 12; Laws 2022, LB700, § 7.

**79-922 Retiree; return to employment; effect; waiver of payments.**

(1) Commencing on September 13, 1997, a beneficiary retired under the School Employees Retirement Act who returns to employment as a school employee, except for members retired under sections 79-951 to 79-954, shall continue receiving retirement benefits and shall be treated for all purposes of the act as a new school employee. A new member account shall be created for such school employee, and the member shall make contributions to such new account and shall receive service credit only for future service commencing from the date of reemployment.

(2) A person receiving a retirement benefit may accept employment in a postsecondary school under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, a community college board of governors for any community college area established by section 85-1504, or any other state agency without having to waive retirement payments, without having to notify the retirement board, and without being subject to any withholding of future retirement payments relating to any retirement system which is provided for a public school.

**Source:** Laws 1985, LB 350, § 3; Laws 1991, LB 549, § 32; R.S.1943, (1994), § 79-1514.01; Laws 1996, LB 900, § 557; Laws 1996, LB 1076, § 17; Laws 1997, LB 624, § 19; Laws 1998, LB 1191, § 49.

**79-923 Repealed. Laws 2017, LB415, § 55.**

**79-924 Repurchase relinquished creditable service; credit for prior years of service; payment; rules and regulations; election; provisions applicable.**

The retirement board may adopt and promulgate rules and regulations to allow for lump-sum or installment payments for school employees who elect to repurchase relinquished creditable service under section 79-921 or buy credit for prior years of service under sections 79-933.03 to 79-933.06 and 79-933.08. Any person who elects to repurchase relinquished creditable service or buy credit for prior years of service on an installment basis may be charged reasonable service costs, shall be credited with those prior years of service only as the money is actually received by the retirement system, and shall have paid to the retirement system all installments prior to the commencement of a retirement annuity.

**Source:** Laws 1986, LB 325, § 6; Laws 1990, LB 819, § 1; R.S.1943, (1994), § 79-1514.05; Laws 1996, LB 900, § 559; Laws 1996, LB 1076, § 18; Laws 1997, LB 724, § 4; Laws 2014, LB1042, § 3; Laws 2018, LB1005, § 24.

**79-925 Retirement system; prior member; repayment authorized; limitation.**

Any person who is now a school employee or becomes a school employee and who had elected out of the retirement system between July 1, 1945, and October 1, 1945, and subsequently elected into the retirement system may elect to repay the retirement system for any number of years of service for which he or she would have contributed had he or she not elected out of the retirement system. The amount to be repaid shall not exceed the amount of the contributions which would have been paid into the retirement system based on the compensation and years of service as a school employee as verified by school officials plus the interest which would have accrued on the amount under the



retirement system. This section shall not apply to school employees who retire prior to January 1, 1987.

**Source:** Laws 1987, LB 549, § 4; Laws 1991, LB 549, § 33; R.S.1943, (1994), § 79-1514.06; Laws 1996, LB 900, § 560.

**79-926 Retirement system; members; statement of service record; requirements for prior service credit; exception; reemployment; military service; credit; effect; applicability.**

(1) Under such rules and regulations as the retirement board may adopt and promulgate, each person who was a school employee at any time prior to the establishment of the retirement system and who becomes a member of the retirement system shall, within two years after becoming a member, file a detailed statement of all service as a school employee rendered by him or her prior to the date of establishment of the retirement system. In order to qualify for prior service credit toward a service annuity, a school employee, unless temporarily out of service for further professional education, for service in the armed forces, or for temporary disability, must have completed four years of service on a part-time or full-time basis during the five calendar years immediately preceding July 1, 1945, or have completed eighteen years out of the last twenty-five years prior to July 1, 1945, full time or part time, and two years out of the five years immediately preceding July 1, 1945, full time or part time, or such school employee must complete, unless temporarily out of service for further professional education, for service in the armed forces, or for temporary disability, four years of service within the five calendar years immediately following July 1, 1945. In order to qualify for prior service credit toward a service annuity, a school employee who becomes a member of the retirement system on or before September 30, 1951, or from July 1, 1945, to the date of becoming a member shall have been continuously employed in a public school in Nebraska operating under any other regularly established retirement or pension system.

(2)(a) Any school employee who is reemployed pursuant to 38 U.S.C. 4301 et seq., shall be treated as not having incurred a break in service by reason of his or her period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan.

(b) The employer shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service. To satisfy the liability, the employer shall pay to the retirement system an amount equal to:

(i) The sum of the member and employer contributions that would have been paid during such period of military service; and

(ii) Any actuarial costs necessary to fund the obligation of the plan to provide benefits based upon such period of military service. For the purposes of determining the amount of such liability and obligation of the plan, earnings and forfeitures, gains and losses, regular interest, or interest credits that would have accrued on the member and employer contributions that are paid by the employer pursuant to this section shall not be included.

(c) The amount required in subdivision (b) of this subsection shall be paid to the retirement system as soon as reasonably practicable following the date of reemployment, but must be paid within eighteen months of the date the board notifies the employer of the amount due. If the employer fails to pay the

required amount within such eighteen-month period, then the employer is also responsible for any actuarial costs and interest on actuarial costs that accrue from eighteen months after the date the employer is notified by the board until the date the amount is paid.

(d) The retirement board may adopt and promulgate rules and regulations to carry out this subsection, including, but not limited to, rules and regulations on:

(i) How and when the member and employer must notify the retirement system of a period of military service;

(ii) The acceptable methods of payment;

(iii) Determining the service and compensation upon which the contributions must be made;

(iv) Accelerating the payment from the employer due to unforeseen circumstances that occur before payment is made pursuant to this section, including, but not limited to, the member's termination or retirement or the employer's reorganization, consolidation, merger, or closing; and

(v) The documentation required to substantiate that the member was reemployed pursuant to 38 U.S.C. 4301 et seq.

(3) This section applies to military service that falls within the definition of uniformed services under 38 U.S.C. 4301 et seq., and includes (a) preparation periods prior to military service, (b) periods during military service, (c) periods of rest and recovery authorized by 38 U.S.C. 4301 et seq., after military service, (d) periods of federal military service, and (e) periods during active service of the state provided pursuant to sections 55-101 to 55-181.

**Source:** Laws 1945, c. 219, § 15, p. 643; R.S.Supp.,1947, § 79-2915; Laws 1949, c. 256, § 449, p. 845; Laws 1951, c. 291, § 2, p. 965; Laws 1953, c. 316, § 1, p. 1048; Laws 1975, LB 236, § 1; Laws 1992, LB 1001, § 33; Laws 1996, LB 847, § 30; R.S.1943, (1994), § 79-1515; Laws 1996, LB 900, § 561; Laws 1998, LB 1191, § 50; Laws 2011, LB509, § 23; Laws 2017, LB415, § 27; Laws 2018, LB1005, § 25; Laws 2023, LB103, § 10.

#### **79-927 Service credit; computation.**

(1) The board shall grant service credit pursuant to this section on an annual basis to members who participate during each fiscal year.

(2) Service credit shall be calculated as follows:

(a) For each year during which a member provides compensated service to one or more school districts for one thousand or more hours, the member shall be credited one year of service credit; and

(b) For each year during which a member provides less than one thousand hours of compensated service to one or more school districts, the member shall be credited one one-thousandth of a year's service credit for each hour worked.

(3) The board may adopt and promulgate rules and regulations for the granting of service credit in accordance with this section, but in no case shall more than one year of service be granted for all service in one plan year.

**Source:** Laws 1945, c. 219, § 16, p. 644; R.S.Supp.,1947, § 79-2916; Laws 1949, c. 256, § 450, p. 846; Laws 1971, LB 987, § 23; Laws 1986,

LB 546, § 1; Laws 1991, LB 549, § 34; R.S.1943, (1994), § 79-1516; Laws 1996, LB 900, § 562; Laws 2002, LB 407, § 27; Laws 2019, LB34, § 13.

**79-928 Board; verify service record.**

Subject to the restrictions in the School Employees Retirement Act and to such rules and regulations as the retirement board may adopt, the retirement board shall verify, as soon as practicable after the filing of statements of service, the service claimed in the statements.

**Source:** Laws 1945, c. 219, § 17, p. 644; R.S.Supp.,1947, § 79-2917; Laws 1949, c. 256, § 451, p. 846; R.S.1943, (1994), § 79-1517; Laws 1996, LB 900, § 563.

**79-929 Board; issue prior service certificate; modification.**

Upon verification of the statements of service, the retirement board shall issue prior service certificates stating, for each member with a valid claim, the length of service in this state, rendered prior to the day of the establishment of the retirement system, with which the member is credited on the basis of his or her proof of service. Any member may, within one year from the date of issuance or modification of such certificate, request the retirement board to modify or correct his or her prior service certificate.

**Source:** Laws 1945, c. 219, § 18, p. 644; R.S.Supp.,1947, § 79-2918; Laws 1949, c. 256, § 452, p. 847; Laws 1951, c. 293, § 1, p. 972; R.S.1943, (1994), § 79-1518; Laws 1996, LB 900, § 564.

**79-930 Member; separation from service; return to work; how treated.**

(1)(a) A member who experiences a separation from service with the member's employer but has not submitted a retirement application or a request for distribution pursuant to section 79-955, or received a retirement benefit, disability retirement benefit, or distribution pursuant to section 79-955, from the retirement system, may return to work as a temporary employee, substitute employee, or volunteer for any employer participating in the retirement system. Such an employee:

(i) Shall be deemed to have incurred a termination for purposes of sections 79-921, 79-932, 79-933.02 to 79-933.06, and 79-933.08;

(ii) Shall not be deemed to have incurred a termination for purposes of sections 79-933, 79-951, and 79-955, and shall not be eligible to receive a retirement benefit, disability retirement benefit, or distribution pursuant to section 79-955, from the retirement system, until the member incurs a termination of employment as described in subdivision (45) of section 79-902; and

(iii) Except as provided in subdivision (1)(b) of this section, shall not be eligible to contribute to the retirement system pursuant to section 79-958 or accrue service credit in the retirement system pursuant to section 79-927.

(b)(i) A member as described in subdivision (1)(a) of this section who becomes a regular employee for an employer participating in the retirement system shall immediately begin making contributions pursuant to section 79-958 on all compensation paid by such employer and accrue service credit pursuant to section 79-927 for all such service performed for such employer, including any work as a temporary employee or substitute employee.

(ii) A member as described in subdivision (1)(a) of this section who has not established eligibility as a regular employee at another employer shall not make contributions pursuant to section 79-958 on all compensation paid by such employer nor accrue service credit pursuant to section 79-927 for work performed by the member as a temporary employee or substitute employee for such employer.

(c) Work performed while the member is not contributing to the retirement system pursuant to subdivision (1)(a) of this section shall not accrue service credit in the retirement system pursuant to section 79-927 and cannot be purchased as service credit under sections 79-933.03 to 79-933.06 and 79-933.08.

(2)(a) A member who experiences a separation from service with the member's employer and has submitted a retirement application or a request for distribution pursuant to section 79-955, or received a retirement benefit, disability retirement benefit, or distribution pursuant to section 79-955, from the retirement system, shall not be deemed to have incurred a termination of employment if the member subsequently returns to work for any employer participating in the retirement system within one hundred eighty days after separating from service, unless such work is limited to:

(i) Intermittent work as a volunteer or substitute employee. For purposes of this subsection:

(A) Intermittent work means work provided on a day-to-day basis that is not greater than eight days of work during a calendar month; and

(B) Day of work means any length of work as a volunteer or substitute employee provided during a single calendar day; or

(ii) Work as authorized by, and performed in accordance with, section 79-920.

(b) The one-hundred-eighty-day period begins on the later of:

(i) The date the member experienced a bona fide separation from service of all employment with all employers participating in the retirement system; or

(ii) The date the Nebraska Public Employees Retirement Systems receives the member's retirement application or request for distribution pursuant to section 79-955.

(c)(i) A member may seek a determination from the director of the Nebraska Public Employees Retirement Systems that it has been at least one hundred eighty days since the member satisfied the requirements described in this subsection. The director shall make such determination if the member produces clear and convincing evidence that is received by the director within forty-five days after the later of:

(A) The date the member experienced a bona fide separation of service of all employment with all employers participating in the retirement system; or

(B) The date the member's retirement application or request for distribution pursuant to section 79-955 is received by the Nebraska Public Employees Retirement Systems.

(ii) A member may appeal the director's determination to the board within thirty days after receiving such determination.

(iii) The board's determination on the appeal shall be final and shall not be appealable to any court.

**Source:** Laws 2024, LB198, § 9.  
Effective date March 19, 2024.

**79-931 Retirement; when; application.**

(1) A member hired prior to July 1, 2016, upon filing a retirement application with the retirement system, may retire (a) at any age if the member has completed thirty-five years of creditable service, (b) if the member has completed at least five years of creditable service plus eligibility and vesting credit and is at least sixty years of age, (c) if the member is at least sixty-five years of age upon termination, or (d) if the member is at least fifty-five years of age, has acquired the equivalent of one-half year of service as a public school employee under the retirement system following July 1, 1997, was a school employee on or after March 4, 1998, and the sum of the member's attained age and creditable service totals eighty-five.

(2) A member hired on or after July 1, 2016, and prior to July 1, 2018, or a member who has taken a retirement or refund that relinquished all prior service credit and who has not repaid the full amount of the refund pursuant to section 79-921 and is rehired or hired by any employer covered by the retirement system on or after July 1, 2016, and prior to July 1, 2018, upon filing a retirement application with the retirement system, may retire (a) at any age if the member has completed thirty-five years of creditable service, (b) if the member is at least fifty-five years of age and the sum of the member's attained age and creditable service totals eighty-five, or (c) if the member is at least sixty years of age and has completed at least five years of creditable service including eligibility and vesting credit.

(3) A member hired on or after July 1, 2018, or a member or former member who has taken a retirement or refund that relinquished all prior service credit and who has not repaid the full amount of the refund pursuant to section 79-921 and is rehired or hired by any employer covered by the retirement system on or after July 1, 2018, upon filing a retirement application with the retirement system, may retire (a) if the member is at least sixty years of age and the sum of the member's attained age and creditable service totals eighty-five or (b) if the member is at least sixty years of age and has completed at least five years of creditable service including eligibility and vesting credit.

**Source:** Laws 1945, c. 219, § 21, p. 645; R.S.Supp.,1947, § 79-2921; Laws 1949, c. 256, § 454, p. 847; Laws 1987, LB 549, § 5; Laws 1989, LB 506, § 10; R.S.1943, (1994), § 79-1520; Laws 1996, LB 900, § 566; Laws 1996, LB 1076, § 19; Laws 1998, LB 822, § 1; Laws 2016, LB447, § 9; Laws 2017, LB415, § 28.

**79-932 Retirement; deferment of payment; board; duties.**

(1) Payment of any benefit provided under the retirement system shall not be deferred later than the required beginning date.

(2) The board shall make reasonable efforts to locate the member or the member's beneficiary and distribute benefits by the required beginning date. If the board is unable to make such a distribution, the benefit shall be distributed pursuant to the Uniform Disposition of Unclaimed Property Act and no

amounts may be applied to increase the benefits any member would otherwise receive under the School Employees Retirement Act.

**Source:** Laws 1945, c. 219, § 22, p. 645; R.S.Supp.,1947, § 79-2922; Laws 1949, c. 256, § 455, p. 847; Laws 1951, c. 291, § 3, p. 966; Laws 1969, c. 735, § 5, p. 2779; Laws 1975, LB 44, § 1; Laws 1979, LB 391, § 6; Laws 1981, LB 463, § 1; Laws 1982, LB 287, § 4; Laws 1986, LB 311, § 17; Laws 1987, LB 296, § 3; Laws 1987, LB 549, § 6; R.S.1943, (1994), § 79-1521; Laws 1996, LB 900, § 567; Laws 2003, LB 451, § 19; Laws 2020, LB1054, § 8.

**Cross References**

Uniform Disposition of Unclaimed Property Act, see section 69-1329.

**79-933 Retirement; member; amount of allowance.**

(1) Upon retirement under section 79-931, a member or emeritus member shall receive a school retirement allowance which shall consist of the sum of: (a) A savings annuity which shall be the actuarial equivalent, as determined by the retirement board, of the member's accumulated contributions at the time of his or her retirement or, in the case of an emeritus member, the savings annuity fixed by the retirement board at the time of his or her original retirement; and (b) a service annuity to be paid by the State of Nebraska.

(2) The amount of any individual service annuity for (a) a full-time school employee hired on or before April 1, 1988, who retires with thirty-five or more years of service or who retires under the provisions of disability retirement, (b) a full-time school employee who provided compensated service after April 1, 1988, but prior to July 19, 1996, if the service annuity commences on or after the member's sixty-fifth birthday, who retires with thirty-five or more years of service or who retires under the provisions of disability retirement, or (c) an emeritus member shall be three dollars and fifty cents per month for each year of creditable service commencing with his or her retirement on or after May 19, 1981. For employees not enumerated in subdivision (a) or (b) of this subsection or for employees hired on or after July 19, 1996, if the service annuity commences prior to the member's sixty-fifth birthday, it shall be on an actuarially reduced basis. Each school employee or emeritus member who retired before July 1, 1973, and who is receiving a service annuity as of that date shall have such service annuity adjusted by the increase in the cost of living as determined by the difference between the Consumer Price Index for Urban Wage Earners and Clerical Workers from the date the service annuity commenced and July 1, 1973, except that such annuity shall not exceed three dollars and fifty cents monthly per year of service based on the same number of years of service that is currently being used to determine his or her service annuity. Such increased service annuity shall commence on July 1, 1973.

**Source:** Laws 1945, c. 219, § 23, p. 645; R.S.Supp.,1947, § 79-2923; Laws 1949, c. 256, § 456, p. 847; Laws 1951, c. 291, § 4, p. 966; Laws 1953, c. 315, § 4, p. 1046; Laws 1959, c. 382, § 6, p. 1326; Laws 1959, c. 414, § 1, p. 1387; Laws 1963, c. 495, § 2, p. 1383; Laws 1965, c. 531, § 2, p. 1674; Laws 1967, c. 546, § 6, p. 1803; Laws 1969, c. 735, § 6, p. 2779; Laws 1973, LB 445, § 1; Laws 1981, LB 248, § 1; Laws 1981, LB 369, § 2; Laws 1986, LB 325, § 5;

Laws 1986, LB 311, § 18; Laws 1987, LB 549, § 7; Laws 1991, LB 549, § 35; R.S.1943, (1994), § 79-1522; Laws 1996, LB 900, § 568; Laws 1996, LB 1076, § 20; Laws 2008, LB1147, § 8.

**79-933.01 Direct rollover; terms, defined; distributee; powers; board; powers.**

(1) For purposes of this section and section 79-933.02:

(a) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;

(b) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified plan described in section 401(a) of the code, (iv) an annuity plan described in section 403(a) or 403(b) of the code, (v) except for purposes of section 79-933.02, an individual retirement plan described in section 408A of the code, and (vi) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means subdivisions (1)(c)(i) through (vi) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

(3) A member's surviving spouse or former spouse who is an alternate payee under a qualified domestic relations order and, on or after July 1, 2010, any designated beneficiary of a member who is not a surviving spouse or former spouse who is entitled to receive an eligible rollover distribution from the retirement system may, in accordance with such rules, regulations, and limitations as may be established by the board, elect to have such distribution made in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(4) An eligible rollover distribution on behalf of a designated beneficiary of a member who is not a surviving spouse or former spouse of the member may be transferred to an individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code that is established for the purpose of receiving the distribution on behalf of the designated beneficiary and that will be treated as an inherited individual retirement account or individual retirement annuity described in section 408(d)(3)(C) of the Internal Revenue Code.

(5) The board may adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

**Source:** Laws 1996, LB 847, § 31; Laws 2002, LB 407, § 28; Laws 2012, LB916, § 21; Laws 2018, LB1005, § 26.

**79-933.02 Retirement system; accept payments and rollovers; limitations; board; powers.**

(1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to sections 79-921, 79-933.03 to 79-933.06, and 79-933.08 if the contributions do not exceed the amount of payment required for the relinquished creditable service repurchased or service credits purchased by the member pursuant to such sections and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified plan under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified plan, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments for purchase of service credits or repurchase of relinquished creditable service pursuant to section 79-921.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includable in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(5) The board may adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

**Source:** Laws 1996, LB 847, § 32; Laws 1997, LB 623, § 17; Laws 1997, LB 724, § 5; Laws 2002, LB 407, § 29; Laws 2014, LB1042, § 4; Laws 2018, LB1005, § 27.

**79-933.03 Contributing member; credit for service in other schools; limitation; procedure; payment.**



(1) Under such rules and regulations as the board may adopt and promulgate, a contributing member under contract or employed on July 19, 1996, may receive credit for not to exceed ten years of creditable teaching service rendered in public schools in another state or schools in this state covered by a school retirement system established pursuant to section 79-979, if such member files an application for service credit within three years of membership or reinstatement in the School Employees Retirement System of the State of Nebraska and makes payment into the retirement system of an amount equal to the required deposits he or she would have paid had he or she been employed in this state by a school covered by the retirement system, plus the interest which would have accrued on such amount. Payment must be completed within five years of membership or reinstatement in the retirement system, or prior to termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) A member who retires as a school employee of this state shall not receive credit for time in service outside of this state or in a school in this state covered by the school retirement system established pursuant to section 79-979 in excess of the time he or she has been in service as a school employee in this state of a school covered by the School Employees Retirement System of the State of Nebraska. The board shall refund to the member the payments made pursuant to subsection (1) of this section to the extent that the member does not receive credit for such service.

(3) A member who purchases service credit pursuant to this section shall provide such documentation as the board may require to prove that the member has forfeited the receipt of any benefits from the retirement system of the public school in another state or a school in this state covered by a retirement system established pursuant to section 79-979 for the creditable service rendered in such school.

**Source:** Laws 1996, LB 1076, § 22; Laws 1997, LB 623, § 18; Laws 1998, LB 1191, § 51; Laws 1999, LB 703, § 10; Laws 2011, LB509, § 24; Laws 2018, LB1005, § 28.

**79-933.04 Contributing member; credit for leave of absence; limitation; procedure; payment.**

(1) For contributing members under contract or employed on July 19, 1996, and under such rules and regulations as the board may adopt and promulgate, any member who was away from his or her position while on a leave of absence from such position authorized by the school board or board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district may receive credit for such time as he or she was on such leave of absence. Such credit shall increase the benefits provided by the retirement system and shall be included in creditable service when determining eligibility for death, disability, termination, and retirement benefits. The member who receives the credit shall earn benefits during the leave based on compensation at the level received immediately prior to the leave of absence. Such credit shall be allowed if such member has paid into the retirement system an amount equal to the sum of the deductions from his or her compensation and any contribution which the school district would have been required to make had

he or she continued to receive compensation at the level received immediately prior to the leave of absence with such deposits plus interest which would have accrued on such deposits to be paid as the retirement board may direct within five years of his or her return to membership in the retirement system, or prior to termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) Leave of absence shall be construed to include, but is not limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or study. A leave of absence granted pursuant to this section shall not exceed four years in length, and in order to receive credit for the leave of absence the member must return to employment with a school district, other than a Class V school district, in the state within one year after termination of the leave of absence and must apply for such credit within three years of the return to membership in the retirement system.

**Source:** Laws 1996, LB 1076, § 23; Laws 1997, LB 623, § 19; Laws 1999, LB 703, § 11; Laws 2018, LB1005, § 29.

**79-933.05 Contributing member; credit for service in other schools; limitation; procedure; payment.**

(1) A contributing member may purchase service credit for not to exceed ten years of creditable service rendered in public schools in another state or schools in this state covered by the school retirement system established pursuant to section 79-979. The amount to be paid by the member for such service credit shall equal the actuarial cost to the School Employees Retirement System of the State of Nebraska for allowing such additional service credit to the employee. Payment shall be completed within five years after making the election to purchase service credit or prior to termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) A member who retires as a school employee of this state shall not receive credit for time in service outside of this state or in a school in this state covered by the school retirement system established pursuant to section 79-979 in excess of the time he or she has been in service as a school employee in this state of a school covered by the School Employees Retirement System of the State of Nebraska. The board shall refund to the member the payments made pursuant to this section to the extent that the member does not receive credit for such service.

(3) Compensation for the period of service purchased shall not be included in determining the member's final average compensation.

(4) A member who purchases service credit pursuant to this section shall provide such documentation as the board may require to prove that the member has forfeited the receipt of any benefits from the retirement system of the public school in another state or a school in this state covered by a retirement system established pursuant to section 79-979 for the creditable service rendered in such school.

**Source:** Laws 1996, LB 1076, § 24; Laws 1997, LB 623, § 20; Laws 1998, LB 1191, § 52; Laws 1999, LB 703, § 12; Laws 2001, LB 408, § 15; Laws 2011, LB509, § 25.

**79-933.06 Contributing member; credit for leave of absence; limitation; procedure; payment.**

(1) Any contributing member may purchase service credit for time he or she was on a leave of absence authorized by the school board or board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district. Such credit shall increase the benefits provided by the retirement system and shall be included in creditable service when determining eligibility for death, disability, termination of employment, and retirement benefits. The amount to be paid by the member for such service credit shall equal the actuarial cost to the retirement system for allowing such additional service credit to the employee. Payment shall be completed within five years after such member's election to purchase service credit or prior to termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) Leave of absence shall be construed to include, but not be limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or study. Such leave shall not exceed four years in length, and in order to receive credit for the leave of absence the member must return to employment with a school district, other than a Class V school district, in the state within one year after termination of the leave of absence.

(3) Compensation for the period of service purchased shall not be included in determining the member's final average compensation.

**Source:** Laws 1996, LB 1076, § 25; Laws 1997, LB 623, § 21; Laws 1999, LB 703, § 13; Laws 2001, LB 408, § 16; Laws 2002, LB 407, § 30; Laws 2011, LB509, § 26.

**79-933.07 Purchase of service credit or repurchase of relinquished creditable service; rules and regulations.**

The board may adopt and promulgate rules and regulations for the purchase of service credit or the repurchase of relinquished creditable service, which shall include, but not be limited to, the method for determining actuarial cost and interest requirements for payments other than one lump-sum payment.

**Source:** Laws 1996, LB 1076, § 26; Laws 2014, LB1042, § 5; Laws 2018, LB1005, § 30.

**79-933.08 Purchase of service credit within twelve months of retirement; agreement authorized.**

(1) A school employee who became a member before July 1, 2014, and who has completed at least five years of creditable service plus eligibility and vesting credit or a school employee who became a member for the first time on or after July 1, 2014, and who has completed ten or more years of creditable service may purchase service credit for up to five years of creditable service. Such purchase may be executed up to twelve months prior to the employee's retirement date. Such service credits shall be purchased by the employee for an amount equal to the actuarial cost to the retirement system for allowing such additional service credit to the employee.

(2) Payment for such service credits shall be completed prior to the employee's termination of employment date and may be made through direct payment, installment payments, or an irrevocable deduction authorization. If payments are made on an installment basis, interest shall be charged at the rate of regular interest.

(3) Compensation for the period of service purchased shall not be included in determining the member's final average compensation.

(4) The retirement board shall credit funds collected pursuant to this section to the Contingent Account pending the employee's retirement. If the employee does not retire within twelve months after the execution of the purchase made pursuant to this section, such funds shall be refunded, excluding interest earned, and the employee shall not be given credit for the service credit attempted to be purchased.

**Source:** Laws 1997, LB 724, § 1; Laws 1999, LB 703, § 14; Laws 2014, LB1042, § 6; Laws 2017, LB415, § 29.

**79-933.09 Retirement system; accept transfers; limitations; how treated.**

The retirement system may accept as payment for repurchase of relinquished creditable service under section 79-921 or purchases of service credit made pursuant to the School Employees Retirement Act a direct trustee-to-trustee transfer from (1) an eligible tax-sheltered annuity plan as described in section 403(b) of the Internal Revenue Code or (2) an eligible deferred compensation plan as described in section 457(b) of the code on behalf of a member who is making payments for such relinquished creditable service or service credit. The amount transferred shall not exceed the amount of payment required for the relinquished creditable service being repurchased or service credit being purchased, and the repurchase of such relinquished creditable service or the purchase of such service credit shall qualify as a purchase of permissive service credit by the member as defined in section 415 of the code.

**Source:** Laws 2002, LB 407, § 31; Laws 2014, LB1042, § 7.

**79-934 Formula annuity retirement allowance; eligibility; formula; payment.**

(1) In lieu of the school retirement allowance provided by section 79-933, any member who is not an employee of a Class V school district and who becomes eligible to make application for and receive a school retirement allowance under section 79-931 may receive a formula annuity retirement allowance if it is greater than the school retirement allowance provided by section 79-933.

(2) Subject to the other provisions of this section, the monthly formula annuity in the normal form shall be determined by multiplying the number of years of creditable service for which such member would otherwise receive the service annuity provided by section 79-933 by (a) one and one-quarter percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following August 24, 1975, (b) one and one-half percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 17, 1982, (c) one and sixty-five hundredths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 1, 1984, (d) one and

seventy-three hundredths percent of his or her final average compensation for a member actively employed as a school employee under the retirement system or under contract with an employer on or after June 5, 1993, (e) one and eight-tenths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 1, 1995, and was employed as a school employee under the retirement system or under contract with an employer on or after April 10, 1996, (f) one and nine-tenths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 1, 1998, and was employed as a school employee under the retirement system or under contract with an employer on or after April 29, 1999, (g) two percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 1, 2000, who was employed as a school employee under the retirement system or under contract with an employer on or after May 2, 2001, and hired prior to July 1, 2016, and who has not retired prior to May 2, 2001, or (h) two percent of his or her final average compensation for a member initially hired on or after July 1, 2016, or a member who has taken a refund or retirement and is rehired or hired by a separate employer covered by the retirement system on or after July 1, 2016, and has acquired the equivalent of five years of service or more as a school employee under the retirement system or under contract with an employer on or after July 1, 2016. Subdivision (2)(f) of this section shall not apply to a member who is retired prior to April 29, 1999. Subdivision (2)(g) of this section shall not apply to a member who is retired prior to May 2, 2001.

(3) If the annuity begins on or after the member's sixty-fifth birthday, the annuity shall not be reduced.

(4) If the annuity begins prior to the member's sixtieth birthday and the member has completed thirty-five or more years of creditable service, the annuity shall be actuarially reduced on the basis of age sixty-five.

(5)(a) For a member who has acquired the equivalent of one-half year of creditable service or more as a school employee under the retirement system following July 1, 1997, and who was a school employee on or after March 4, 1998, and who was hired prior to July 1, 2016, if the annuity begins at a time when the sum of the member's attained age and creditable service totals eighty-five and the member is at least fifty-five years of age, the annuity shall not be reduced. This subdivision shall not apply to a member who is retired prior to March 4, 1998.

(b) For a member hired on or after July 1, 2016, and prior to July 1, 2018, or for a member who has taken a retirement or refund that relinquished all prior service credit and who has not repaid the full amount of the refund pursuant to section 79-921 and is rehired or hired by any employer covered by the retirement system on or after July 1, 2016, and prior to July 1, 2018, if the annuity begins at a time when the sum of the member's attained age and creditable service totals eighty-five and the member is at least fifty-five years of age, the annuity shall not be reduced.

(c) For a member hired on or after July 1, 2018, or for a member or former member who has taken a retirement or refund that relinquished all prior service credit and who has not repaid the full amount of the refund pursuant to

section 79-921 and is rehired or hired by any employer covered by the retirement system on or after July 1, 2018, if the annuity begins at a time when the sum of the member's attained age and creditable service totals eighty-five and the member is at least sixty years of age, the annuity shall not be reduced.

(6) If the annuity begins on or after the member's sixtieth birthday and the member has completed at least a total of five years of creditable service including eligibility and vesting credit but has not yet qualified for an unreduced annuity as specified in this section, the annuity shall be reduced by three percent for each year after the member's sixtieth birthday and prior to his or her sixty-fifth birthday.

(7)(a) Except as provided in section 42-1107, the normal form of the formula annuity shall be an annuity payable monthly during the remainder of the member's life with the provision that in the event of the member's death before sixty monthly payments have been made the monthly payments will continue until sixty monthly payments have been made in total pursuant to section 79-969.

(b) Except as provided in section 42-1107, a member may elect to receive in lieu of the normal form of annuity an actuarially equivalent annuity in any optional form provided by section 79-938.

(8) All formula annuities shall be paid from the School Retirement Fund.

(9)(a) For purposes of this section, in the determination of compensation for members whose retirement date is on or after July 1, 2013, that part of a member's compensation for the plan year which exceeds the member's compensation for the preceding plan year by more than eight percent during the capping period shall be excluded. Such member's compensation for the first plan year of the capping period shall be compared to the member's compensation received for the plan year immediately preceding the capping period.

(b) For purposes of this subsection:

(i) Capping period means the five plan years preceding the later of (A) such member's retirement date or (B) such member's final compensation date; and

(ii) Final compensation date means the later of (A) the date on which a retiring member's final compensation is actually paid or (B) if a retiring member's final compensation is paid in advance as a lump sum, the date on which such final compensation would have been paid to the member in the absence of such advance payment.

**Source:** Laws 1967, c. 546, § 7, p. 1804; Laws 1969, c. 736, § 1, p. 2785; Laws 1975, LB 50, § 2; Laws 1981, LB 248, § 2; Laws 1982, LB 609, § 1; Laws 1984, LB 457, § 2; Laws 1986, LB 546, § 2; Laws 1986, LB 325, § 7; Laws 1987, LB 549, § 8; Laws 1988, LB 160, § 1; Laws 1988, LB 1170, § 3; Laws 1991, LB 549, § 36; Laws 1993, LB 292, § 2; Laws 1996, LB 700, § 9; R.S.1943, (1994), § 79-1522.01; Laws 1996, LB 900, § 569; Laws 1996, LB 1050, § 7; Laws 1996, LB 1076, § 21; Laws 1996, LB 1273, § 24; Laws 1998, LB 822, § 2; Laws 1999, LB 674, § 4; Laws 2001, LB 711, § 2; Laws 2002, LB 407, § 32; Laws 2015, LB446, § 3; Laws 2016, LB447, § 10; Laws 2016, LB790, § 6; Laws 2017, LB415, § 30; Laws 2019, LB33, § 4; Laws 2019, LB34, § 14.

**79-935 Retirement; increase in benefits; when applicable.**

No provision of section 79-916, 79-934, 79-958, 79-960, or 79-966 which would result in an increase in benefits that would have been payable prior to July 1, 1984, shall apply to any person until that person has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 1, 1984.

No provision of section 79-934, 79-957, 79-958, or 79-960 which would result in an increase in benefits that would have been payable prior to July 1, 1986, shall apply to any person until that person has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 1, 1986.

No provision of section 79-934, 79-957, 79-958, or 79-960 which would result in an increase in benefits that would have been payable prior to April 1, 1988, shall apply to any person unless he or she is employed on such date and has acquired five hundred sixteen or more hours as a school employee under the retirement system during or after fiscal year 1987-88.

No provision of section 79-916, 79-934, 79-957, 79-958, 79-960, or 79-966 which would result in an increase in benefits that would have been payable prior to July 1, 2016, shall apply to any person until that person has acquired the equivalent of five years of service or more as a school employee under the retirement system following July 1, 2016.

**Source:** Laws 1984, LB 457, § 7; Laws 1986, LB 325, § 8; Laws 1988, LB 160, § 2; R.S.1943, (1994), § 79-1522.02; Laws 1996, LB 900, § 570; Laws 2016, LB447, § 11.

**79-936 Repealed. Laws 1998, LB 1191, § 85.**

**79-937 Repealed. Laws 1998, LB 1191, § 85.**

**79-938 Retirement allowance; method of payment; election.**

At any time before the retirement date a member may elect to receive his or her school retirement allowance or disability retirement allowance under any optional form specified in the group annuity contract, if one exists, or under any optional form permitted by the retirement board, if no group annuity contract exists. Such optional annuity shall be the actuarial equivalent of the normal form of the annuity.

**Source:** Laws 1945, c. 219, § 31, p. 648; R.S.Supp.,1947, § 79-2931; Laws 1949, c. 256, § 464, p. 850; Laws 1951, c. 291, § 5, p. 967; Laws 1967, c. 546, § 8, p. 1806; Laws 1969, c. 735, § 9, p. 2781; R.S.1943, (1994), § 79-1530; Laws 1996, LB 900, § 573.

**79-939 Retirement system; benefits; paid by retirement board.**

All benefits under the retirement system shall be paid as directed by the retirement board. Except as provided in section 79-916, no member shall receive a retirement benefit from the retirement system covering years for which he or she is being paid a benefit under the Class V School Employees Retirement Act.

**Source:** Laws 1967, c. 546, § 18, p. 1809; Laws 1969, c. 584, § 90, p. 2401; R.S.1943, (1994), § 79-1557; Laws 1996, LB 900, § 574; Laws 1997, LB 623, § 24; Laws 1998, LB 497, § 1.

## Cross References

Class V School Employees Retirement Act, see section 79-978.01.

**79-940 Repealed. Laws 2011, LB 509, § 55.****79-941 Total monthly benefit, defined; how computed.**

For purposes of sections 79-941 to 79-946, unless the context otherwise requires, total monthly benefit means the benefit that would have been received under a monthly life annuity with no refund or death benefit option even though a different option, as provided in section 79-938, has been selected. The total monthly benefit shall be computed as if the person had retired at age sixty-five or at the actual age of retirement, whichever is later.

**Source:** Laws 1980, LB 228, § 2; R.S.1943, (1994), § 79-1559; Laws 1996, LB 900, § 576; Laws 2011, LB509, § 27.

**79-942 Supplemental retirement benefit; how computed.**

For each person who qualifies under sections 79-941 to 79-946, the retirement board shall determine the value of the total monthly benefit being received from the School Employees Retirement System of the State of Nebraska or from the retirement system for Class V districts as provided by the Class V School Employees Retirement Act. From one hundred fifty-five dollars, the retirement board shall subtract the total monthly benefit. Such difference, if positive, shall be the supplemental benefit and shall be paid to the retired person each month from the School Retirement Fund, except that if this difference is less than five dollars, a minimum payment of five dollars per month shall be made to such person.

**Source:** Laws 1980, LB 228, § 3; Laws 1981, LB 141, § 2; R.S.1943, (1994), § 79-1560; Laws 1996, LB 900, § 577; Laws 1998, LB 497, § 3; Laws 2004, LB 1097, § 25; Laws 2011, LB509, § 28.

## Cross References

Class V School Employees Retirement Act, see section 79-978.01.

**79-943 Supplemental retirement benefit; not applicable; when.**

Section 79-942 shall not apply to any retired person who receives a service annuity less than the amount provided in sections 79-933 and 79-938.

**Source:** Laws 1980, LB 228, § 4; Laws 1981, LB 141, § 3; R.S.1943, (1994), § 79-1561; Laws 1996, LB 900, § 578.

**79-944 Supplemental retirement benefit; receipt by beneficiary.**

If a beneficiary is receiving the annuity provided through the School Employees Retirement System of the State of Nebraska or through the retirement system for Class V districts as provided by the Class V School Employees Retirement Act, the supplemental benefit shall be the benefit that would be computed under section 79-942 had the deceased retired person still been alive. The beneficiary will continue to receive the supplemental benefit until the expiration of the annuity option selected by the member.

**Source:** Laws 1980, LB 228, § 5; Laws 1981, LB 141, § 4; R.S.1943, (1994), § 79-1562; Laws 1996, LB 900, § 579; Laws 1998, LB 497, § 4; Laws 2011, LB509, § 29.



## Cross References

Class V School Employees Retirement Act, see section 79-978.01.

**79-945 Supplemental retirement benefit; receipt by beneficiary; duration.**

If a retiree eligible for the supplemental benefit under section 79-942 dies subsequent to July 19, 1980, the beneficiary shall be entitled to the supplemental benefit until the expiration of the annuity option selected by the retired member.

**Source:** Laws 1980, LB 228, § 6; R.S.1943, (1994), § 79-1563; Laws 1996, LB 900, § 580.

**79-946 Retired Teachers Supplementary Benefits Fund; created; termination.**

(1) The Retired Teachers Supplementary Benefits Fund is created. The fund shall be administered by the retirement board. This fund shall be considered an express obligation of the state. The appropriation for such fund shall be determined by the retirement board as of January 1 of each odd-numbered year and included in the biennial budget to be adopted by the regular session of the Legislature held in each odd-numbered year.

(2) On June 30, 2004, the Retired Teachers Supplementary Benefits Fund shall terminate and all assets of the fund shall be transferred to the School Retirement Fund. All obligations of the Retired Teachers Supplementary Benefits Fund shall be paid thereafter from the School Retirement Fund. The appropriation to provide supplementary benefits to retired teachers shall be determined as provided in subsection (1) of this section and shall be made to the School Retirement Fund in the same manner and amounts as had been made to the Retired Teachers Supplementary Retirement Fund.

**Source:** Laws 1980, LB 228, § 7; Laws 1986, LB 258, § 22; R.S.1943, (1994), § 79-1564; Laws 1996, LB 900, § 581; Laws 2004, LB 1097, § 26.

**79-947 Adjusted supplemental retirement benefit; determination; computation; payment; funding.**

(1) Commencing October 1, 1988, the retirement board shall determine an adjusted supplemental retirement benefit to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement for each person who is retired from the School Employees Retirement System of the State of Nebraska or from the retirement system for Class V school districts as provided by the Class V School Employees Retirement Act with twenty-five or more years of creditable service as of October 1, 1988.

(2) For each person who qualifies under subsection (1) of this section, the retirement board shall determine the value of the total monthly benefit being received from the School Employees Retirement System of the State of Nebraska or from the retirement system for Class V school districts as provided by the Class V School Employees Retirement Act and the supplemental benefit provided by section 79-942 if applicable. From two hundred fifty dollars, the board shall subtract the total monthly benefit. Such difference, if positive, shall be the adjusted supplemental retirement benefit and shall be paid to the retired person each month, except that if this difference is less than five dollars, a minimum payment of five dollars per month shall be made to such person. The

adjusted supplemental retirement benefit shall be paid to a retired person during his or her life.

(3) The retirement board may buy a paid-up annuity for a retired person which guarantees the adjusted supplemental retirement benefit provided under this section.

(4) The adjusted supplemental retirement benefit provided under this section shall be funded from the Contingent Account but only from such income that is attributable to employer and employee contributions.

**Source:** Laws 1988, LB 1170, § 21; R.S.1943, (1994), § 79-1566; Laws 1996, LB 900, § 582; Laws 1998, LB 497, § 5; Laws 2002, LB 407, § 33; Laws 2011, LB509, § 30.

**Cross References**

*Class V School Employees Retirement Act, see section 79-978.01.*

**79-947.01 Repealed. Laws 2011, LB 509, § 55.**

**79-947.02 Repealed. Laws 1999, LB 674, § 12.**

**79-947.03 Repealed. Laws 2011, LB 509, § 55.**

**79-947.04 Repealed. Laws 2011, LB 509, § 55.**

**79-947.05 Repealed. Laws 2011, LB 509, § 55.**

**79-947.06 Members prior to July 1, 2013; annual benefit adjustment; cost-of-living adjustment calculation method.**

On July 1 of each year, for school employees who became members prior to July 1, 2013:

(1) The board shall determine the number of retired members or beneficiaries described in subdivision (4)(b) of this section in the retirement system and an annual benefit adjustment shall be made by the board for each retired member or beneficiary under one of the cost-of-living adjustment calculation methods found in subdivision (2), (3), or (4) of this section. Each retired member or beneficiary, if eligible, shall receive an annual benefit adjustment under the cost-of-living adjustment calculation method that provides the retired member or beneficiary the greatest annual benefit adjustment increase. No retired member or beneficiary shall receive an annual benefit adjustment under more than one of the cost-of-living adjustment calculation methods provided in this section;

(2) The current benefit paid to a retired member or beneficiary under this subdivision shall be adjusted so that the purchasing power of the benefit being paid is not less than seventy-five percent of the purchasing power of the initial benefit. The purchasing power of the initial benefit in any year following the year in which the initial benefit commenced shall be calculated by dividing the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the current year by the Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the year in which the benefit commenced. The result shall be multiplied by the product that results when the amount of the initial benefit is multiplied by seventy-five percent. In any year in which applying the adjustment provided in subdivision (3) of this section results in a benefit which would be less than seventy-five percent of the purchasing power

of the initial benefit as calculated in this subdivision, the adjustment shall instead be equal to the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor from the prior year to the current year;

(3) The current benefit paid to a retired member or beneficiary under this subdivision shall be increased annually by the lesser of (a) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the prior year to June 30 of the present year or (b) two and one-half percent;

(4)(a) The current benefit paid to a retired member or beneficiary under subdivision (4) of this section shall be calculated by multiplying the retired member's or beneficiary's total monthly benefit by the lesser of (i) the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the last adjustment of the total monthly benefit of each retired member or beneficiary through June 30 of the year for which the annual benefit adjustment is being calculated or (ii) an amount equal to three percent per annum compounded for the period from the last adjustment of the total monthly benefit of each retired member or beneficiary through June 30 of the year for which the annual benefit adjustment is being calculated.

(b) In order for a retired member or beneficiary to receive the cost-of-living adjustment calculation method provided in subdivision (4) of this section, the retired member or beneficiary shall be (i) a retired member or beneficiary who has been receiving a retirement benefit for at least five years if the member had at least twenty-five years of creditable service, (ii) a member who has been receiving a disability retirement benefit for at least five years pursuant to section 79-952, or (iii) a beneficiary who has been receiving a death benefit pursuant to section 79-956 for at least five years, if the member's or beneficiary's monthly accrual rate is less than or equal to the minimum accrual rate as determined by subdivision (4) of this section.

(c) The monthly accrual rate under subdivision (4) of this section is the retired member's or beneficiary's total monthly benefit divided by the number of years of creditable service earned by the retired or deceased member.

(d) The total monthly benefit under subdivision (4) of this section is the total benefit received by a retired member or beneficiary pursuant to the School Employees Retirement Act and previous adjustments made pursuant to this section or any other provision of the act that grants a benefit or cost-of-living increase, but the total monthly benefit shall not include sums received by an eligible retired member or eligible beneficiary from federal sources.

(e) Beginning July 1, 2010, the minimum accrual rate under this subsection was twenty-four dollars and eleven cents. Beginning July 1, 2011, the minimum accrual rate under this subsection was twenty-five dollars and nine cents. Beginning July 1, 2012, the minimum accrual rate under this subsection was twenty-five dollars and forty-nine cents. Beginning July 1, 2013, the board shall annually adjust the minimum accrual rate to reflect the cumulative percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the last adjustment of the minimum accrual rate;

(5) Each retired member or beneficiary shall receive the sum of the annual benefit adjustment and such retiree's total monthly benefit less withholding, which sum shall be the retired member's or beneficiary's adjusted total monthly benefit. Each retired member or beneficiary shall receive the adjusted total

monthly benefit until the expiration of the annuity option selected by the member or until the retired member or beneficiary again qualifies for the annual benefit adjustment, whichever occurs first;

(6) The annual benefit adjustment pursuant to this section shall not cause a current benefit to be reduced, and a retired member or beneficiary shall never receive less than the adjusted total monthly benefit until the annuity option selected by the member expires; and

(7) The board shall adjust the annual benefit adjustment provided in this section so that the cost-of-living adjustment provided to the retired member or beneficiary at the time of the annual benefit adjustment does not exceed the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost of living for retired employees.

**Source:** Laws 2011, LB509, § 32; Laws 2013, LB263, § 17; Laws 2013, LB553, § 5.

**79-947.07 Employee who becomes a member on or after July 1, 2013; annual benefit adjustment; cost-of-living adjustment calculation method.**

On July 1 of each year, for school employees who became members on or after July 1, 2013:

(1) The board shall determine the number of retired members or beneficiaries in the retirement system and an annual benefit adjustment shall be made by the board for each retired member or beneficiary. The benefit paid to a retired member or beneficiary under this section shall be increased annually by the lesser of (a) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the prior year to June 30 of the present year or (b) one percent;

(2) Each retired member or beneficiary shall receive the sum of the annual benefit adjustment and such retiree's total monthly benefit less withholding, which sum shall be the retired member's or beneficiary's adjusted total monthly benefit. Each retired member or beneficiary shall receive the adjusted total monthly benefit until the expiration of the annuity option selected by the member or until the retired member or beneficiary again qualifies for the annual benefit adjustment, whichever occurs first;

(3) The annual benefit adjustment pursuant to this section shall not cause a current benefit to be reduced, and a retired member or beneficiary shall never receive less than the adjusted total monthly benefit until the annuity option selected by the member expires; and

(4) The board shall adjust the annual benefit adjustment provided in this section so that the cost-of-living adjustment provided to the retired member or beneficiary at the time of the annual benefit adjustment does not exceed the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section is discontinued or replaced, a substitute index published by the United States Department of

Labor shall be selected by the board which shall be a reasonable representative measurement of the cost of living for retired employees.

**Source:** Laws 2013, LB553, § 6.

**79-948 Retirement benefits; exemption from taxation and legal process; exception.**

The right of a person to an annuity, an allowance, or any optional benefit under the School Employees Retirement Act, any other right accrued or accruing to any person or persons under such act, the various funds and account created thereby, and all the money, investments, and income thereof shall be exempt from any state, county, municipal, or other local tax, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall not be assignable except to the extent that such annuity, allowance, or benefit is subject to a qualified domestic relations order under the Spousal Pension Rights Act.

**Source:** Laws 1945, c. 219, § 53, p. 655; R.S.Supp.,1947, § 79-2953; Laws 1949, c. 256, § 486, p. 857; Laws 1969, c. 735, § 15, p. 2783; Laws 1971, LB 987, § 30; Laws 1986, LB 311, § 20; Laws 1988, LB 1170, § 19; Laws 1989, LB 506, § 11; Laws 1991, LB 549, § 44; R.S.1943, (1994), § 79-1552; Laws 1996, LB 900, § 583; Laws 1996, LB 1273, § 26; Laws 2002, LB 407, § 34; Laws 2012, LB916, § 22; Laws 2015, LB40, § 10.

**Cross References**

**Spousal Pension Rights Act**, see section 42-1101.

**79-949 False or fraudulent actions; prohibited acts; refusal to furnish information; violations; penalties; denial of benefits.**

(1) Any person who, knowing it to be false or fraudulent, presents or causes to be presented a false or fraudulent claim or benefit application, any false or fraudulent proof in support of such a claim or benefit, or false or fraudulent information which would affect a future claim or benefit application to be paid under the retirement system for the purpose of defrauding or attempting to defraud the retirement system shall be guilty of a Class II misdemeanor. The retirement board shall deny any benefits that it determines are based on false or fraudulent information and shall have a cause of action against the member to recover any benefits already paid on the basis of such information.

(2) Any school employee, member of a school board or board of education, or agent of any employer, who willfully fails or refuses to furnish to the retirement board upon its request and in the manner prescribed by it such information, data, or records, as may be necessary for carrying into effect the School Employees Retirement Act, shall be guilty of a Class V misdemeanor.

**Source:** Laws 1945, c. 219, § 54, p. 656; R.S.Supp.,1947, § 79-2954; Laws 1949, c. 256, § 487, p. 858; Laws 1971, LB 987, § 31; Laws 1977, LB 39, § 260; Laws 1991, LB 549, § 45; R.S.1943, (1994), § 79-1553; Laws 1996, LB 900, § 584; Laws 1998, LB 1191, § 54.

**79-950 Appeal; procedure.**

All acts and decisions of the retirement board shall be subject to review, reversal, modification, or approval by the retirement board, on its own motion or on the complaint of a member, under such rules as the retirement board may prescribe. Any teacher or other person, who deems himself or herself aggrieved by any action of the retirement board, may appeal to and have the same reviewed by the retirement board under such rules as the retirement board shall prescribe. Any final order made by the retirement board after review may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

**Source:** Laws 1945, c. 219, § 45, p. 653; R.S.Supp.,1947, § 79-2945; Laws 1949, c. 256, § 478, p. 855; Laws 1988, LB 352, § 163; R.S.1943, (1994), § 79-1544; Laws 1996, LB 900, § 585.

**Cross References**

**Administrative Procedure Act**, see section 84-920.

**79-951 Retirement; disability; conditions; application; medical examination; waiver.**

(1) Any member, disregarding the length of service, may be retired as a result of disability either upon his or her own application or upon the application of his or her employer or any person acting in his or her behalf. Before any member may be so retired, a medical examination shall be made at the expense of the retirement system, which examination shall be conducted by a disinterested physician legally authorized to practice medicine under the laws of the state in which he or she practices, such physician to be selected by the retirement board, and the physician shall certify to the board that the member should be retired because he or she suffers from an inability to engage in any substantially gainful activity by reason of any medically determinable physical or mental impairment which was initially diagnosed or became disabling while the member was an active participant in the plan and which can be expected to result in death or to be of long-continued and indefinite duration. The medical examination may be waived if, in the judgment of the retirement board, extraordinary circumstances exist which preclude substantial gainful activity by the member. Such circumstances shall include hospice placement or similar confinement for a terminal illness or injury. The application for disability retirement shall be made within one year of termination of employment.

(2) The retirement board may adopt and promulgate rules and regulations and prescribe the necessary forms to carry out this section.

**Source:** Laws 1945, c. 219, § 24, p. 646; R.S.Supp.,1947, § 79-2924; Laws 1949, c. 256, § 457, p. 848; Laws 1963, c. 495, § 3, p. 1584; Laws 1975, LB 50, § 3; Laws 1987, LB 549, § 9; Laws 1991, LB 549, § 37; R.S.1943, (1994), § 79-1523; Laws 1996, LB 900, § 586; Laws 1996, LB 1076, § 27; Laws 1997, LB 623, § 25; Laws 1998, LB 1191, § 55; Laws 1999, LB 538, § 2; Laws 2000, LB 1192, § 15; Laws 2004, LB 1097, § 28; Laws 2010, LB950, § 16; Laws 2017, LB415, § 31.

If the Public Employees Retirement Board's medical examiner opines that the member is not disabled, the member may offer other medical evidence. *Shepherd v. Chambers*, 281 Neb. 57, 794 N.W.2d 678 (2011).

Subsection (1) of this section ordinarily requires expert medical evidence to establish a disability. *Shepherd v. Chambers*, 281 Neb. 57, 794 N.W.2d 678 (2011).

**79-952 Retirement; disability; allowance; formula.**

Upon retirement for disability, a member shall receive a disability retirement allowance which shall consist of a savings annuity and a service annuity computed in the manner specified in section 79-933 or, in lieu thereof, the formula annuity computed in the manner specified in section 79-934 without the reduction to the actuarial equivalent of the formula annuity deferred to the sixty-fifth birthday of the member.

**Source:** Laws 1945, c. 219, § 25, p. 646; R.S.Supp.,1947, § 79-2925; Laws 1949, c. 256, § 458, p. 848; Laws 1975, LB 50, § 4; R.S.1943, (1994), § 79-1524; Laws 1996, LB 900, § 587.

**79-953 Retirement; disability; annual medical examination; refusal; effect.**

The retirement board may require any disability beneficiary who has not yet attained the age of sixty-five years to undergo a medical examination once each year. Such an examination shall be made (1) at the place of residence of the beneficiary or other place mutually agreed upon, (2) at the expense of the retirement system, and (3) by a physician, legally authorized to practice medicine under the laws of the state in which he or she practices, designated by the retirement board. If any disability beneficiary who has not yet attained the age of sixty-five years willfully refuses to submit to at least one such medical examination in any fiscal year, his or her allowance may be discontinued until his or her withdrawal of such refusal. If such refusal continues for one year, his or her rights in and to his or her disability retirement allowance may be revoked by the retirement board.

**Source:** Laws 1945, c. 219, § 26, p. 647; R.S.Supp.,1947, § 79-2926; Laws 1949, c. 256, § 459, p. 849; R.S.1943, (1994), § 79-1525; Laws 1996, LB 900, § 588; Laws 1997, LB 623, § 26.

**79-954 Retirement; disability beneficiary; restoration to active service; effect.**

If a disability beneficiary under the age of sixty-five years is restored to active service as a school employee or if the examining physician certifies that the person is no longer disabled for service as a school employee, the disability retirement allowance shall cease. If the beneficiary again becomes a school employee, he or she shall become a member of the retirement system. Any prior service certificate, on the basis of which his or her creditable service was computed at the time of his or her retirement for disability, shall be restored to full force and effect upon his or her again becoming a member of such retirement system.

**Source:** Laws 1945, c. 219, § 27, p. 647; R.S.Supp.,1947, § 79-2927; Laws 1949, c. 256, § 460, p. 849; R.S.1943, (1994), § 79-1526; Laws 1996, LB 900, § 589; Laws 2009, LB449, § 1; Laws 2013, LB553, § 7; Laws 2016, LB447, § 12; Laws 2017, LB415, § 32.

**79-955 Termination of membership; accumulated contributions; return.**

(1) Upon termination of employment for any cause other than death or retirement, the retirement board shall, upon the member's request, terminate his or her membership in the retirement system and distribute to such member the member's accumulated contributions in the School Retirement Fund.

(2) Any member who attains or has attained membership in another Nebraska state or school retirement system authorized by the Legislature and who elects not to be or remain a member of the School Employees Retirement

System of the State of Nebraska shall have his or her accumulated contributions returned to him or her forthwith.

**Source:** Laws 1945, c. 219, § 28, p. 647; R.S.Supp.,1947, § 79-2928; Laws 1949, c. 256, § 461, p. 849; Laws 1965, c. 532, § 1, p. 1676; Laws 1967, c. 555, § 1, p. 1825; Laws 1969, c. 735, § 7, p. 2780; Laws 1976, LB 30, § 3; Laws 1988, LB 1170, § 4; R.S.1943, (1994), § 79-1527; Laws 1996, LB 900, § 590; Laws 1997, LB 624, § 20; Laws 1998, LB 1191, § 56; Laws 2011, LB509, § 31; Laws 2024, LB198, § 12.

Effective date March 19, 2024.

**79-956 Death of member before retirement; contributions; how treated; direct transfer to retirement plan; death while performing qualified military service; additional death benefit.**

(1)(a) Except as provided in section 42-1107, if a member dies before the member's retirement date, the member's accumulated contributions shall be paid pursuant to section 79-969.

(b) Except for payment to an alternative payee pursuant to a qualified domestic relations order, if no legal representative or beneficiary applies for such accumulated contributions, the contributions shall be distributed in accordance with the Uniform Disposition of Unclaimed Property Act.

(2) When the deceased member has twenty years or more of creditable service regardless of age or dies on or after his or her sixty-fifth birthday and leaves a surviving spouse who has been designated by the member as the sole surviving primary beneficiary, on forms provided by the board, as of the date of the member's death, such beneficiary may elect, within twelve months after the death of the member, to receive (a) a refund of the member's contribution account balance, including interest, plus an additional one hundred one percent of the member's contribution account balance, including interest, or (b) an annuity which shall be equal to the amount that would have accrued to the member had he or she elected to have the retirement annuity paid as a one-hundred-percent joint and survivor annuity payable as long as either the member or the member's spouse should survive and had the member retired (i) on the date of death if his or her age at death is sixty-five years or more or (ii) at age sixty-five years if his or her age at death is less than sixty-five years.

(3) When the deceased member who was a school employee on or after May 1, 2001, has not less than five years of creditable service and less than twenty years of creditable service and dies before his or her sixty-fifth birthday and leaves a surviving spouse who has been designated in writing as beneficiary and who, as of the date of the member's death, is the sole surviving primary beneficiary, such beneficiary may elect, within twelve months after the death of the member, to receive (a) a refund of the member's contribution account balance with interest plus an additional one hundred one percent of the member's contribution account balance with interest or (b) an annuity payable monthly for the surviving spouse's lifetime which shall be equal to the benefit amount that had accrued to the member at the date of the member's death, commencing when the member would have reached age sixty, or the member's age at death if greater, reduced by three percent for each year payments commence before the member would have reached age sixty-five, and adjusted for payment in the form of a one-hundred-percent joint and survivor annuity.



(4)(a) If the requirements of subsection (2) or (3) of this section are not met, a lump sum equal to all contributions to the fund made by such member plus regular interest shall be paid pursuant to section 79-969.

(b) An application for benefits under subsection (2) or (3) of this section shall be deemed to have been timely filed if the application is received by the retirement system within twelve months after the date of the death of the member.

(5) Benefits to which a surviving spouse, beneficiary, or estate of a member shall be entitled pursuant to this section shall commence immediately upon the death of such member.

(6) A lump-sum death benefit paid to the member's beneficiary, other than the member's estate, that is an eligible distribution may be distributed in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(7) For any member whose death occurs on or after January 1, 2007, while performing qualified military service as defined in section 414(u) of the Internal Revenue Code, the member's beneficiary shall be entitled to any additional death benefit that would have been provided, other than the accrual of any benefit relating to the period of qualified military service. The additional death benefit shall be determined as if the member had returned to employment with the employer and such employment had terminated on the date of the member's death.

**Source:** Laws 1945, c. 219, § 29, p. 648; R.S.Supp.,1947, § 79-2929; Laws 1949, c. 256, § 462, p. 850; Laws 1951, c. 293, § 3, p. 972; Laws 1969, c. 735, § 8, p. 2781; Laws 1975, LB 50, § 5; Laws 1976, LB 645, § 1; Laws 1981, LB 128, § 1; Laws 1986, LB 325, § 9; Laws 1987, LB 549, § 10; Laws 1988, LB 1170, § 5; Laws 1990, LB 903, § 1; Laws 1994, LB 833, § 32; R.S.1943, (1994), § 79-1528; Laws 1996, LB 900, § 591; Laws 1996, LB 1273, § 25; Laws 2000, LB 1192, § 16; Laws 2001, LB 711, § 4; Laws 2003, LB 451, § 20; Laws 2007, LB508, § 2; Laws 2012, LB916, § 23; Laws 2013, LB263, § 18; Laws 2019, LB34, § 15; Laws 2021, LB532, § 8.

#### Cross References

Uniform Disposition of Unclaimed Property Act, see section 69-1329.

#### **79-957 Termination of employment before retirement date; certified service record; statement of accumulated contributions; termination benefits, when.**

Upon termination of employment for any reason other than death, before qualifying for retirement under section 79-931, the retirement board shall, upon request, issue the member a certified service record and statement of accumulated contributions and retain such member's accumulated contributions. In such event, no further contributions shall be required, regular interest on accumulated contributions shall continue to be credited to his or her account, and none of the member's retirement rights shall be canceled. At age sixty-five or after thirty-five years of creditable service, such member shall become eligible to receive the retirement allowance provided in sections 79-933 and 79-934. Any deferred formula annuity provided shall be based on the member's compensation preceding the date of termination as if the member had retired on his or her date of termination. At the option of the terminating member, and

if such member has completed at least five but less than thirty-five years of creditable service, such annuity may commence at any time after such member attains the age of sixty years and before his or her sixty-fifth birthday and shall be reduced by the percentages prescribed in section 79-934. Such election by the terminating member may be made at any time prior to the commencement of the annuity payments.

**Source:** Laws 1945, c. 219, § 30, p. 648; R.S.Supp.,1947, § 79-2930; Laws 1949, c. 256, § 463, p. 850; Laws 1975, LB 56, § 2; Laws 1976, LB 33, § 1; Laws 1986, LB 325, § 10; Laws 1987, LB 549, § 11; Laws 1988, LB 160, § 3; Laws 1991, LB 549, § 38; R.S.1943, (1994), § 79-1529; Laws 1996, LB 900, § 592; Laws 1996, LB 1076, § 28; Laws 1997, LB 624, § 21.

**79-958 Employee; employer; required deposits and contributions.**

(1) Beginning on September 1, 2012, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund nine and seventy-eight hundredths percent of compensation. Such deposits shall be transmitted at the same time and in the same manner as required employer contributions.

(2) For the purpose of providing the funds to pay for formula annuities, every employer shall be required to deposit in the School Retirement Fund one hundred one percent of the required contributions of the school employees of each employer. Such deposits shall be transmitted to the retirement board at the same time and in the same manner as such required employee contributions.

(3) The employer shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1986, and the contributions so picked up shall be treated as employer contributions pursuant to section 414(h)(2) of the Internal Revenue Code in determining federal tax treatment under the code and shall not be included as gross income of the member until such time as they are distributed or made available. The contributions, although designated as member contributions, shall be paid by the employer in lieu of member contributions. The employer shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The employer shall pick up these contributions by a compensation deduction through a reduction in the cash compensation of the member. Member contributions picked up shall be treated for all purposes of the School Employees Retirement Act in the same manner and to the same extent as member contributions made prior to the date picked up.

(4) The employer shall pick up the member contributions made through irrevocable payroll deduction authorizations pursuant to sections 79-921 and 79-933.03 to 79-933.06, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under subsection (3) of this section.

**Source:** Laws 1945, c. 219, § 32, p. 649; R.S.Supp.,1947, § 79-2932; Laws 1949, c. 256, § 465, p. 851; Laws 1951, c. 291, § 6, p. 968; Laws 1959, c. 414, § 2, p. 1388; Laws 1967, c. 546, § 9, p. 1806; Laws 1971, LB 987, § 24; Laws 1984, LB 457, § 3; Laws 1985, LB 353, § 3; Laws 1986, LB 325, § 11; Laws 1988, LB 160, § 4; Laws 1988, LB 1170, § 6; Laws 1991, LB 549, § 39; Laws 1994, LB

833, § 33; Laws 1995, LB 574, § 80; Laws 1996, LB 700, § 10; R.S.Supp.,1995, § 79-1531; Laws 1996, LB 900, § 593; Laws 1997, LB 623, § 27; Laws 1998, LB 1191, § 57; Laws 2001, LB 408, § 17; Laws 2002, LB 407, § 35; Laws 2005, LB 503, § 10; Laws 2007, LB596, § 2; Laws 2009, LB187, § 1; Laws 2011, LB382, § 1; Laws 2013, LB263, § 19; Laws 2013, LB553, § 8; Laws 2017, LB415, § 33.

**79-959 Account of member; credit with regular interest.**

The account of each member in the School Retirement Fund shall be credited with regular interest earned monthly, quarterly, semiannually, or annually as the retirement board may direct.

**Source:** Laws 1945, c. 219, § 33, p. 649; R.S.Supp.,1947, § 79-2933; Laws 1949, c. 256, § 466, p. 851; Laws 1967, c. 546, § 10, p. 1807; Laws 1969, c. 735, § 10, p. 2781; Laws 1974, LB 905, § 7; Laws 1986, LB 311, § 19; Laws 1988, LB 1170, § 7; R.S.1943, (1994), § 79-1532; Laws 1996, LB 900, § 594.

**79-960 Employer; deduction; remittances; fees; interest charge.**

Every employer shall deduct and withhold an amount pursuant to section 79-958 from the compensation as a school employee of each member on each payroll period after such school employee becomes a member of the retirement system. The employer shall transmit periodically, as directed by the retirement board and in such form as is approved by the retirement board, such amounts and any other information required by the board. The board shall immediately transmit to the State Treasurer all payments received. The board may charge the employer a late administrative processing fee not to exceed twenty-five dollars if the information and money required by section 79-958 are delinquent or are not timely received by the board. In addition, the board may charge the employer a late fee of thirty-eight thousandths of one percent of the amount required to be submitted pursuant to this section for each day such amount has not been received. The late fee may be used to make a member's account whole for any costs that may have been incurred by the member due to the late receipt of contributions. The board shall charge the employer an amount equal to the interest which would have accrued if the delinquent report causes the employee to lose interest on his or her account. The proceeds of the interest charge shall be used to reimburse the account of each school employee deprived of interest by the delay.

**Source:** Laws 1945, c. 219, § 34, p. 649; R.S.Supp.,1947, § 79-2934; Laws 1949, c. 256, § 467, p. 851; Laws 1951, c. 291, § 7, p. 969; Laws 1967, c. 546, § 11, p. 1807; Laws 1984, LB 457, § 4; Laws 1986, LB 325, § 12; Laws 1988, LB 160, § 5; Laws 1988, LB 1170, § 8; Laws 1991, LB 549, § 40; Laws 1994, LB 1306, § 3; R.S.1943, (1994), § 79-1533; Laws 1996, LB 900, § 595; Laws 1996, LB 1076, § 29; Laws 1999, LB 272, § 92; Laws 2000, LB 1192, § 17; Laws 2002, LB 407, § 36.

**79-961 Repealed. Laws 2000, LB 1192, § 28.**

**79-962 Contract of employment; contents.**

Every contract of employment with a school employee shall specify (1) the contractual period of employment, including the starting and ending dates of the contract, and (2) that it is subject to the provisions of the School Employees Retirement Act.

**Source:** Laws 1945, c. 219, § 36, p. 650; R.S.Supp.,1947, § 79-2936; Laws 1949, c. 256, § 469, p. 852; R.S.1943, (1994), § 79-1535; Laws 1996, LB 900, § 597; Laws 1997, LB 347, § 27; Laws 2013, LB263, § 20.

**79-963 Director; employer and employee; furnish information.**

Every employer and school employee shall send to the director of the Nebraska Public Employees Retirement Systems, as specified in section 79-906, upon request and in the manner required by the director, such information as he or she may require (1) for the identification of school employees and (2) for the determination of the membership of the retirement system and the obligations of the employer and school employee to the retirement system.

**Source:** Laws 1945, c. 219, § 37, p. 650; R.S.Supp.,1947, § 79-2937; Laws 1949, c. 256, § 470, p. 852; Laws 1951, c. 293, § 4, p. 972; Laws 1969, c. 735, § 11, p. 2782; Laws 1988, LB 1170, § 9; Laws 1991, LB 549, § 41; R.S.1943, (1994), § 79-1536; Laws 1996, LB 900, § 598; Laws 2000, LB 1192, § 18; Laws 2002, LB 407, § 37.

**79-964 Employer; pay to board; withholding of excess deduction.**

Every employer shall pay to the retirement board the required deposits made by every member in the service of such employer. No employer shall, without the consent of the member, withhold or deduct from any member's compensation on any payroll any amount in excess of the required deduction for the period covered by such payroll.

**Source:** Laws 1956, c. 219, § 38, p. 650; R.S.Supp.,1947, § 79-2938; Laws 1949, c. 256, § 471, p. 852; Laws 1976, LB 30, § 4; R.S.1943, (1994), § 79-1537; Laws 1996, LB 900, § 599.

**79-965 Payment of compensation less required deductions; discharge of claims for service.**

Notwithstanding any other law, rule, or regulation affecting the salary, pay, compensation, or tenure of any member, payment of such salary, pay, or compensation to such member, less the required deductions provided for in the School Employees Retirement Act, shall be a full and complete discharge and acquittance of all claims for service rendered by such member during the period covered by such payment.

**Source:** Laws 1945, c. 219, § 39, p. 651; R.S.Supp.,1947, § 79-2939; Laws 1949, c. 256, § 472, p. 853; R.S.1943, (1994), § 79-1538; Laws 1996, LB 900, § 600.

**79-966 School Retirement Fund; state deposits and transfers; amount; determination; contingent state deposit; how calculated; hearing.**

(1)(a) On the basis of all data in the possession of the retirement board, including such mortality and other tables as are recommended by the actuary engaged by the retirement board and adopted by the retirement board, the

retirement board shall annually, on or before July 1, determine the state deposit to be made by the state in the School Retirement Fund for that fiscal year. The amount of such state deposit shall be determined pursuant to section 79-966.01. The retirement board shall thereupon certify the amount of such state deposit, and on the warrant of the Director of Administrative Services, the State Treasurer shall, as of July 1 of such year, transfer from funds appropriated by the state for that purpose to the School Retirement Fund the amount of such state deposit.

(b) Beginning July 1, 2016, the contingent state transfer described in this subsection shall be calculated as a percent of compensation of all members of the retirement system. For any year in which a deposit is made to the School Retirement Fund under this subsection, if the actuary for a retirement system provided for under the Class V School Employees Retirement Act determines that the actuarially required contribution rate, for the fiscal year of the retirement system that begins before the state deposit, exceeds the rate of all contributions required pursuant to the Class V School Employees Retirement Act, using the amortization period specified in section 79-966.01, the Class V district school board may request a public hearing of the Appropriations Committee of the Legislature to ask the state to transfer to the Class V school district for transfer to the funds of the retirement system provided for under the Class V School Employees Retirement Act an amount determined by multiplying the compensation of all members of such retirement system by the lesser of the percent of compensation transferred into the School Retirement Fund under this subsection or the percent of compensation of the members of the retirement system provided for under the Class V School Employees Retirement Act needed to meet the actuarially required contribution rate for such system, using the amortization period specified in section 79-966.01. Any additional amount of transfer so calculated, recommended by the Appropriations Committee of the Legislature, and approved by the Legislature, shall be added to the two percent specified in subsection (2) of this section for the amount required by subsection (2) of section 79-916 to be transferred to the Class V school district, which shall transfer such amount to the funds of the retirement system provided for under the Class V School Employees Retirement Act.

(2) For each fiscal year beginning July 1, 2014, in addition to the state transfers required by subsections (1) and (3) of this section, the state shall transfer into the School Retirement Fund an amount equal to two percent of the compensation of all members of the retirement system.

(3) In addition to the state deposits and transfers required by subsections (1) and (2) of this section, beginning on July 1, 2005, and each fiscal year thereafter for employees who become members prior to July 1, 2016, the state shall transfer into the Service Annuity Fund such amounts as may be necessary to pay the normal cost and amortize the unfunded actuarial accrued liability of the service annuity benefit established pursuant to sections 79-933 and 79-952 as accrued through the end of the previous fiscal year of the school employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act.

**Source:** Laws 1945, c. 219, § 41, p. 651; R.S.Supp., 1947, § 79-2941; Laws 1949, c. 256, § 474, p. 853; Laws 1965, c. 530, § 4, p. 1668; Laws 1969, c. 735, § 12, p. 2782; Laws 1971, LB 987, § 25; Laws 1981, LB 248, § 3; Laws 1984, LB 457, § 5; Laws 1988, LB 1170, § 10;

R.S.1943, (1994), § 79-1540; Laws 1996, LB 900, § 601; Laws 2002, LB 407, § 39; Laws 2004, LB 1097, § 29; Laws 2009, LB187, § 2; Laws 2011, LB382, § 2; Laws 2013, LB553, § 9; Laws 2016, LB447, § 13; Laws 2021, LB17, § 12; Laws 2021, LB147, § 5.

**Cross References**

Class V School Employees Retirement Act, see section 79-978.01.

**79-966.01 School Retirement Fund; annual actuarial valuations; powers and duties.**

(1) Prior to July 1, 2021:

(a) Beginning July 1, 2013, and each fiscal year thereafter, the board shall cause an annual actuarial valuation to be performed that will value the plan assets for the year and ascertain the contributions required for such fiscal year. The actuary for the board shall perform the annual valuation of the system on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level percentage of salary basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members;

(b) Beginning July 1, 2006, any existing unfunded liabilities shall be reinitialized and amortized over a thirty-year period, and during each subsequent actuarial valuation through June 30, 2021, changes in the unfunded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a thirty-year period beginning on the valuation date of such change;

(c) If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a thirty-year period as of the actuarial valuation date; and

(d) If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the School Employees Retirement Act, the actuary shall determine the added contributions required to be paid by the State of Nebraska that constitute the difference between the actuarially required contribution rate and the rate of all other required contributions.

(2) Beginning July 1, 2021, and each fiscal year thereafter:

(a) The board shall cause an annual actuarial valuation to be performed that will value the plan assets for the year and ascertain the contributions required for such fiscal year. The actuary for the board shall perform the annual valuation of the system on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board using the entry age actuarial cost method. Under such method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level percentage of salary basis. The normal cost under such method shall be

determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members;

(b) Any changes in the unfunded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change;

(c) If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date; and

(d) If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the School Employees Retirement Act, the actuary shall determine the added contributions required to be paid by the State of Nebraska that constitute the difference between the actuarially required contribution rate and the rate of all other required contributions.

(3) Upon the recommendation of the actuary to the board, and after the board notifies the Nebraska Retirement Systems Committee of the Legislature, the board may combine or offset certain amortization bases to reduce future volatility of the actuarial contribution rate. Such notification to the committee shall be in writing and include, at a minimum, the actuary's projection of the contributions to fund the plan if the combination or offset were not implemented, the actuary's projection of the contributions to fund the plan if the combination or offset were implemented, and the actuary's explanation of why the combination or offset is in the best interests of the plan at the proposed time.

**Source:** Laws 2002, LB 407, § 38; Laws 2006, LB 1019, § 9; Laws 2013, LB553, § 10; Laws 2021, LB17, § 13.

**79-967 Board; determine rates of benefits; adjustments; distribution of gains and savings.**

As often as may be necessary, the retirement board shall cause to be made a thorough investigation of the several funds or account of the retirement system for the purpose of determining the rates at which the benefits will be granted. It shall make adjustments in such rates as, upon recommendation of the actuary, may appear to be proper for maintaining solvency of the several funds or account. No revision of rates shall affect adversely the rights of any beneficiary under an application made prior to such revision. The retirement board shall, from time to time, order and make such distribution of gains and savings to the several funds or account as it may deem equitable.

**Source:** Laws 1945, c. 219, § 43, p. 652; R.S.Supp.,1947, § 79-2943; Laws 1949, c. 256, § 476, p. 854; Laws 1969, c. 736, § 2, p. 2787; Laws 1988, LB 1170, § 11; R.S.1943, (1994), § 79-1542; Laws 1996, LB 900, § 602; Laws 1998, LB 1191, § 58; Laws 2002, LB 407, § 40.

**79-968 Retirement system; assets; funds; account; investment.**

All assets of the retirement system shall be credited, according to the purpose for which they are held, to the Expense Fund, to the School Retirement Fund, or to the Contingent Account. Any money in the account or funds available for

investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1945, c. 219, § 46, p. 653; R.S.Supp.,1947, § 79-2946; Laws 1949, c. 256, § 479, p. 855; Laws 1965, c. 530, § 5, p. 1668; Laws 1967, c. 546, § 12, p. 1808; Laws 1969, c. 584, § 88, p. 2401; Laws 1988, LB 1170, § 12; Laws 1993, LB 292, § 4; Laws 1994, LB 1066, § 90; R.S.1943, (1994), § 79-1545; Laws 1996, LB 900, § 603; Laws 2002, LB 407, § 41.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

**Nebraska State Funds Investment Act**, see section 72-1260.

**79-969 Beneficiary designation; order of priority.**

(1) Except as provided in section 42-1107, in the event of a member's death, the death benefit shall be paid to the following, in order of priority:

- (a) To the member's surviving designated beneficiary on file with the board;
- (b) To the spouse married to the member on the member's date of death if there is no surviving designated beneficiary on file with the board; or
- (c) To the member's estate if the member is not married on the member's date of death and there is no surviving designated beneficiary on file with the board.

(2) The priority designations described in subsection (1) of this section shall not apply if the member has retired under a joint and survivor benefit option.

**Source:** Laws 2019, LB34, § 11.

**79-970 Repealed. Laws 2002, LB 407, § 67.**

**79-971 Accumulated contributions; use.**

The Nebraska Public Employees Retirement Systems shall keep an accounting of the required deposits from the compensation of members collected to provide savings annuities. The accumulated contributions, plus statutorily required accumulated interest, of a member may be (1) returned to the member upon the member's termination, (2) paid pursuant to section 79-969 in the event of the member's death, or (3) in the event of the member's retirement, used to assist in funding the member's school retirement allowance, disability retirement allowance, or formula annuity allowance. Any accumulated contributions forfeited shall be transferred from the School Retirement Fund to the Contingent Account.

**Source:** Laws 1945, c. 219, § 47, p. 653; R.S.Supp.,1947, § 79-2947; Laws 1949, c. 256, § 480, p. 855; Laws 1969, c. 735, § 14, p. 2783; Laws 1971, LB 987, § 26; Laws 1987, LB 549, § 12; Laws 1988, LB 1170, § 15; R.S.1943, (1994), § 79-1546; Laws 1996, LB 900, § 606; Laws 2002, LB 407, § 43; Laws 2019, LB34, § 16.

**79-972 Repealed. Laws 2002, LB 407, § 67.**

**79-972.01 School Retirement Fund; created; use.**

The School Retirement Fund is created. The required deposits of an employer, the state, and the employees shall be credited to the fund and all savings



annuities, service annuities, and formula annuities shall be paid from the fund as provided in the School Employees Retirement Act. Subfunds may be established as necessary. Any unexpended balance existing on June 30, 2002, in the School Employers Deposit Account, the Service Annuity Account, the School Employees Savings Account, the Annuity Reserve Account, and the School Employees Retirement System Reserve Fund shall be transferred to the School Retirement Fund.

**Source:** Laws 2002, LB 407, § 42; Laws 2021, LB147, § 6.

**79-973 Contingent Account; created; use.**

A Contingent Account is created (1) to facilitate the crediting of regular interest on the amounts in the School Retirement Fund, (2) to fund the adjusted supplemental retirement benefit provided by section 79-947, and (3) to provide an account to cover any special requirements of the School Retirement Fund or the Expense Fund. All income, interest, and dividends derived from the deposits and investments authorized by the School Employees Retirement Act shall be paid into the Contingent Account. The retirement board may accept gifts, devises, and bequests. Any funds which may come into the possession of the retirement system in this manner or which may be transferred from the School Retirement Fund by reason of the lack of a claimant or because of a surplus in any fund or account described in section 79-968, or any other money the disposition of which is not otherwise provided for in the act, shall be credited to the Contingent Account. Any deficit occurring in the School Retirement Fund or in the Expense Fund shall be met by payments to the fund from the Contingent Account. Annually the retirement board shall estimate the amount of money deemed necessary to pay the obligation levied against the Contingent Account, including regular interest. If such amount exceeds the revenue estimated to accrue to the fund for that year, such excess shall be certified to the State Treasurer and shall, on warrant of the Director of Administrative Services, be transferred from funds appropriated by the state for such purpose to the Contingent Account.

**Source:** Laws 1945, c. 219, § 50, p. 654; R.S.Supp.,1947, § 79-2950; Laws 1949, c. 256, § 483, p. 856; Laws 1965, c. 530, § 8, p. 1669; Laws 1971, LB 987, § 28; Laws 1988, LB 1170, § 17; Laws 1991, LB 549, § 43; Laws 1993, LB 292, § 5; R.S.1943, (1994), § 79-1549; Laws 1996, LB 900, § 608; Laws 2002, LB 407, § 44.

**79-974 Expense Fund; created; use.**

The Expense Fund is created and is the fund to which shall be credited the proportionate share of administration expense transferred from the Contingent Account at the direction of the retirement board. The Expense Fund shall be credited with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred as directed by the board for the proper administration of the School Employees Retirement Act and necessary in connection with the administration and operation of the retirement system. Annually, as soon after July 1 as is practicable, the retirement board shall estimate the amount of money which is deemed necessary to be paid into the Expense Fund for that fiscal year.

**Source:** Laws 1945, c. 219, § 51, p. 655; R.S.Supp.,1947, § 79-2951; Laws 1949, c. 256, § 484, p. 857; Laws 1971, LB 987, § 29; Laws 1988, LB 1170, § 18; R.S.1943, (1994), § 79-1550; Laws 1996, LB 900, § 609; Laws 2001, LB 408, § 18; Laws 2005, LB 364, § 10.

**79-975 Repealed. Laws 2002, LB 407, § 67.****79-976 Investment services; charges; report; state investment officer; duty.**

Any funds of the retirement system available for investment shall be invested by the Nebraska Investment Council pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Payment for investment services by the council shall be charged directly against the gross investment returns of the funds. Charges so incurred shall not be a part of the retirement board's annual budget request. The amounts of payment for such services, as of December 31 of each year, shall be reported not later than March 31 of the following year to the council, the retirement board, and the Nebraska Retirement Systems Committee of the Legislature. The report submitted to the committee shall be submitted electronically. All money received by the State Treasurer and the retirement board for the retirement system shall be invested by the state investment officer within thirty-one days after receipt.

**Source:** Laws 1967, c. 546, § 17, p. 1809; Laws 1969, c. 584, § 89, p. 2401; Laws 1986, LB 311, § 21; Laws 1988, LB 1170, § 20; Laws 1991, LB 549, § 46; Laws 1994, LB 1066, § 91; R.S.1943, (1994), § 79-1556; Laws 1996, LB 900, § 611; Laws 2002, LB 407, § 45; Laws 2012, LB782, § 156.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

**Nebraska State Funds Investment Act**, see section 72-1260.

**79-977 School district expenditures; not exempt from limitations on spending.**

Any expenditure made by a school district pursuant to sections 79-934, 79-968, and 79-973 as changed by Laws 1993, LB 292, shall be considered a general fund expenditure of the district and shall not be exempt from the growth limitations placed on district spending by the Tax Equity and Educational Opportunities Support Act.

**Source:** Laws 1993, LB 292, § 6; R.S.1943, (1994), § 79-1567; Laws 1996, LB 900, § 612; Laws 2002, LB 407, § 46.

**Cross References**

**Tax Equity and Educational Opportunities Support Act**, see section 79-1001.

**79-977.01 Limitation of actions.**

Every claim and demand under the School Employees Retirement Act and against the retirement system or the retirement board shall be forever barred unless the action is brought within two years of the time at which the claim accrued.

**Source:** Laws 1996, LB 1076, § 31.

**79-977.02 Retirement system contributions, income, property, and rights; how treated.**

All contributions to the retirement system, all property and rights purchased with the contributions, and all investment income attributable to the contributions, property, or rights shall be held in trust by the State of Nebraska for the exclusive benefit of members and their beneficiaries and shall only be used to

pay benefits to such persons and to pay administrative expenses according to the provisions of the School Employees Retirement Act.

**Source:** Laws 1998, LB 1191, § 59.

**79-977.03 Termination of system or contributions; effect.**

Upon termination or partial termination of the retirement system or upon complete discontinuance of contributions under the retirement system, the rights of all affected members to benefits accrued to the date of such termination, partial termination, or discontinuance, to the extent funded as of such date, shall be nonforfeitable.

**Source:** Laws 1998, LB 1191, § 60.

**(b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS**

**79-978 Terms, defined.**

For purposes of the Class V School Employees Retirement Act, unless the context otherwise requires:

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

(2) Actuarial equivalent means the equality in value of the retirement allowance for early retirement or the retirement allowance for an optional form of annuity, or both, with the normal form of the annuity to be paid, as determined by the application of the appropriate actuarial table, except that use of such actuarial tables shall not effect a reduction in benefits accrued prior to September 1, 1985, as determined by the actuarial tables in use prior to such date;

(3) Actuarial tables means:

(a) For determining the actuarial equivalent of any annuities other than joint and survivorship annuities:

(i) For members hired before July 1, 2018, a unisex mortality table using twenty-five percent of the male mortality and seventy-five percent of the female mortality from the 1994 Group Annuity Mortality Table with a One Year Setback and using an interest rate of eight percent compounded annually; and

(ii) For members hired on or after July 1, 2018, or rehired on or after July 1, 2018, after termination of employment and being paid a retirement benefit, the determinations shall be based on a unisex mortality table and an interest rate specified by (A) the board until September 1, 2024, or (B) the retirement board beginning on September 1, 2024. Both the mortality table and the interest rate shall be recommended by the actuary retained pursuant to section 79-984 following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table, interest rate, and actuarial factors in effect on the member's retirement date shall be used to calculate the actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate; and

(b) For joint and survivorship annuities:

(i) For members hired before July 1, 2018, a unisex retiree mortality table using sixty-five percent of the male mortality and thirty-five percent of the female mortality from the 1994 Group Annuity Mortality Table with a One Year Setback and using an interest rate of eight percent compounded annually and a

unisex joint annuitant mortality table using thirty-five percent of the male mortality and sixty-five percent of the female mortality from the 1994 Group Annuity Mortality Table with a One Year Setback and using an interest rate of eight percent compounded annually; and

(ii) For members hired on or after July 1, 2018, or rehired on or after July 1, 2018, after termination of employment and being paid a retirement benefit, the determinations shall be based on a unisex mortality table and an interest rate specified by (A) the board until September 1, 2024, or (B) the retirement board beginning on September 1, 2024. Both the mortality table and the interest rate shall be recommended by the actuary retained pursuant to section 79-984 following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table, interest rate, and actuarial factors in effect on the member's retirement date shall be used to calculate the actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate;

(4) Administrator of the retirement system or administrator means (a) until September 1, 2024, the person administering the retirement system who is appointed by the board or (b) beginning on September 1, 2024, the director appointed by the retirement board pursuant to section 84-1503;

(5) Annuitant means any member receiving an allowance;

(6) Annuity means annual payments, for both prior service and membership service, for life as provided in the Class V School Employees Retirement Act;

(7) Audit year means the period beginning January 1 in any year and ending on December 31 of that same year, which is the period of time used in the preparation of (a) the annual actuarial analysis and valuation and (b) a financial audit of the retirement system, including the investments of the retirement system;

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

(9) Board means the board of trustees until July 1, 2021, and the board of education beginning July 1, 2021, and until September 1, 2024;

(10) Board of education means the board or boards of education of a school district or districts;

(11) Board of trustees means:

(a) Until September 1, 2024, the entity established pursuant to section 79-980; and

(b) Beginning September 1, 2024, the board of education shall be deemed to be the successor in interest for all liability associated with the actions or inactions of the entity identified under subdivision (11)(a) of this section and as specified in the Class V School Employees Retirement Act;

(12)(a) Compensation means gross wages or salaries payable to the member during a fiscal year and includes (i) overtime pay, (ii) member contributions to the retirement system that are picked up under section 414(h) of the Internal Revenue Code, as defined in section 49-801.01, (iii) retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements, and (iv) amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code, as defined in section 49-801.01, or any other section of the code which defers or excludes such amounts from income.

(b) Compensation does not include (i) fraudulently obtained amounts as determined by the board, (ii) amounts for accrued unused sick leave or accrued unused vacation leave converted to cash payments, (iii) insurance premiums converted into cash payments, (iv) reimbursement for expenses incurred, (v) fringe benefits, (vi) per diems paid as expenses, (vii) bonuses for services not actually rendered, (viii) early retirement inducements, (ix) cash awards, (x) severance pay, or (xi) employer contributions made for the purposes of separation payments made at retirement and early retirement inducements.

(c) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code, as defined in section 49-801.01, shall be disregarded;

(13) Council means the Nebraska Investment Council created and acting pursuant to section 72-1237;

(14) Creditable service means the sum of the membership service and the prior service, measured in one-tenth-year increments;

(15) Early retirement date means, for members hired prior to July 1, 2016, who have attained age fifty-five, that month and year selected by a member having at least ten years of creditable service which includes a minimum of five years of membership service. Early retirement date means, for members hired on or after July 1, 2016, that month and year selected by a member having at least five years of creditable service and who has attained age sixty;

(16) Early retirement inducement means, but is not limited to:

(a) A benefit, bonus, or payment to a member by an employer in exchange for an agreement by the member to retire with a reduced retirement benefit;

(b) A benefit, bonus, or payment paid to a member by an employer in addition to the member's retirement benefit;

(c) Lump-sum or installment cash payments by an employer, except payments for accrued unused leave converted to cash payments;

(d) An additional salary or wage component of any kind that is being paid by an employer as an incentive to leave employment and not for personal services performed for which creditable service is granted;

(e) Partial or full employer payment of a member's health, dental, life, or long-term disability insurance benefits or cash in lieu of such insurance benefits that extend beyond the member's termination of employment and contract of employment dates. This subdivision does not apply to any period during which the member is contributing to the retirement system and being awarded creditable service; and

(f) Any other form of separation payments made by an employer to a member at termination, including, but not limited to, purchasing retirement contracts for the member pursuant to section 79-514, or depositing money for the member in an account established under section 403(b) of the Internal Revenue Code except for payments for accrued unused leave;

(17) Employee means the following enumerated persons receiving compensation from the school district: (a) Teachers, other than substitutes, employed on a written contract basis; (b) administrators employed on a written contract, agreement, or document basis; and (c) regular employees;

(18) Employer means a school district participating in a retirement system established pursuant to the Class V School Employees Retirement Act;

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

(20) Hire date or date of hire means the first day of compensated service subject to retirement contributions;

(21) Interest means, for the purchase of service credit, the purchase of prior service credit, restored refunds, and delayed payments, the investment return assumption used in the most recent actuarial valuation;

(22) Member means any employee included in the membership of the retirement system or any former employee who has made contributions to the system and has not received a refund;

(23) Membership service means service on or after September 1, 1951, as an employee of the school district and a member of the system for which compensation is paid by the school district. Credit for more than one year of membership service shall not be allowed for service rendered in any fiscal year. Beginning September 1, 2005, a member shall be credited with a year of membership service for each fiscal year in which the member performs one thousand or more hours of compensated service as an employee of the school district. For an employee who becomes a member prior to July 1, 2018, an hour of compensated service shall include any hour for which the member is compensated by the school district during periods when no service is performed due to vacation or approved leave. For an employee who becomes a member on or after July 1, 2018, an hour of compensated service shall include any hour for which the member is compensated by the school district during periods when no service is performed due to used accrued sick days, used accrued vacation days, federal and state holidays, and jury duty leave for which the member is paid full compensation by an employer. If a member performs less than one thousand hours of compensated service during a fiscal year, one-tenth of a year of membership service shall be credited for each one hundred hours of compensated service by the member in such fiscal year. In determining a member's total membership service, all periods of membership service, including fractional years of membership service in one-tenth-year increments, shall be aggregated;

(24) Military service means service in the uniformed services as defined in 38 U.S.C. 4301 et seq., as such provision existed on March 27, 1997;

(25) Normal retirement date means the end of the month during which the member attains age sixty-five and has completed at least five years of membership service;

(26) Participation means qualifying for and making required deposits to the retirement system during the course of a fiscal year;

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

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

(29)(a) Regular employee means a person hired on a full-time basis, which basis shall contemplate a work week of not less than thirty hours, and who is not (i) a teacher employed on a written contract basis or (ii) an administrator employed on a written contract, agreement, or document basis.

(b) Effective September 1, 2021, a person hired by an employer or under contract to provide service for less than thirty hours per week but who provides service for an average of thirty hours or more per week in each calendar month of any three calendar months of a fiscal year shall, beginning with the next full payroll period, commence contributions and shall be deemed a regular employee;

(30) Regular interest means interest (a) on the total contributions of the member prior to the close of the last preceding fiscal year, (b) compounded annually, and (c)(i) beginning September 1, 2016, at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on September 1 of each year and (ii) prior to September 1, 2016, at rates to be determined annually by the board, which shall have the sole, absolute, and final discretionary authority to make such determination, except that the rate for any given year in no event shall exceed the actual percentage of net earnings of the system during the last preceding fiscal year;

(31) Retirement allowance means the total annual retirement benefit payable to a member for service or disability;

(32) Retirement application means beginning on and after September 1, 2024, the form approved and provided by the retirement system for acceptance of a member's request for either regular or disability retirement;

(33) Retirement board means the Public Employees Retirement Board created and acting pursuant to section 84-1501;

(34) Retirement date means the date of retirement of a member for service or disability as fixed by (a) the board for retirements occurring prior to September 1, 2024, or (b) the retirement board for retirements occurring on or after September 1, 2024;

(35) Retirement system or system means the School Employees' Retirement System of (corporate name of the school district as described in section 79-405) as provided for by the act;

(36) School district means an employer participating in a retirement system established pursuant to the Class V School Employees Retirement Act;

(37) Secondary beneficiary means the person or persons entitled to receive or receiving a benefit by reason of the death of all primary beneficiaries prior to the death of the member. If no primary beneficiary survives the member, secondary beneficiaries shall be treated in the same manner as primary beneficiaries;

(38) Solvency means the rate of all contributions required pursuant to the Class V School Employees Retirement Act is equal to or greater than the actuarially required contribution rate as annotated in the most recent valuation report prepared by the actuary retained for the retirement system as provided in section 79-984;

(39) State investment officer means the person appointed by the council pursuant to section 72-1240 and acting pursuant to the Nebraska State Funds Investment Act;

(40) Substitute employee means a person hired by an employer as a temporary employee to assume the duties of an employee due to a temporary absence of any employee. Substitute employee does not mean a person hired as an

employee on an ongoing basis to assume the duties of other employees who are temporarily absent;

(41) Temporary employee means a person hired by an employer who is not an employee and who is hired to provide service for a limited period of time to accomplish a specific purpose or task. When such specific purpose or task is complete, the employment of such temporary employee shall terminate and in no case shall the temporary employment period exceed one year in duration;

(42)(a) Termination of employment or termination occurs on the date the member experiences a bona fide separation from service of employment with the member's employer, the date of which separation is the last day of service under the member's contractual agreement or, if there is no contract or only partial fulfillment of a contract, as determined by an employer. A member who experiences a separation from service shall comply with the return-to-work provisions of section 79-992 if the member returns to work for an employer.

(b) A member shall not be deemed to have incurred a termination of employment if the board determines that, based on the facts and circumstances, (i) a claimed termination of employment was not a bona fide separation from service with the employer; (ii) a member was compensated for a full contractual period when the member stopped working prior to the end date of the member's employment as determined by the member's contract or labor agreement; or (iii) a member prearranged a return to work that violates the Class V School Employees Retirement Act.

(c) Nothing in this subdivision (42) precludes an employer from adopting a policy which limits or denies employees who have experienced a separation from service from working as a volunteer or substitute employee within one hundred eighty days after the employee experiences a separation from service;

(43) Transfer of management means the transition and transfer of the general management, administration, and operation of the retirement system from the board of trustees, board of education, and school district to the retirement board as described in the Class V School Employees Retirement Act. Transfer of management does not include:

(a) Transfer of the school district's funding obligations described in the Class V School Employees Retirement Act or assumption of financial liability for such funding obligations by (i) the State of Nebraska, (ii) the retirement board, (iii) the Nebraska Public Employees Retirement Systems, (iv) any other state entity with duties related to administration of the retirement system, or (v) the council for its investment duties regarding the assets of the retirement system; or

(b) Merger or consolidation of any Class V school employees retirement system established under the Class V School Employees Retirement Act with the School Employees Retirement System of the State of Nebraska or any other retirement system administered by the retirement board;

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

(45) Voluntary service or volunteer means providing bona fide unpaid service to an employer.

**Source:** Laws 1951, c. 274, § 1, p. 910; Laws 1953, c. 308, § 1, p. 1025; Laws 1967, c. 544, § 1, p. 1786; Laws 1976, LB 994, § 1; Laws 1982, LB 131, § 1; Laws 1985, LB 215, § 1; Laws 1987, LB 298, § 5; Laws 1988, LB 1142, § 9; Laws 1988, LB 551, § 2; Laws 1989, LB 237, § 1; Laws 1991, LB 350, § 1; Laws 1992, LB 1001,



§ 20; Laws 1993, LB 107, § 1; Laws 1995, LB 505, § 1; R.S.Supp.,1995, § 79-1032; Laws 1996, LB 900, § 613; Laws 1997, LB 347, § 28; Laws 1997, LB 623, § 28; Laws 1998, LB 497, § 6; Laws 2000, LB 155, § 1; Laws 2005, LB 364, § 11; Laws 2010, LB950, § 17; Laws 2015, LB446, § 4; Laws 2016, LB447, § 14; Laws 2016, LB790, § 7; Laws 2017, LB415, § 34; Laws 2018, LB1005, § 31; Laws 2021, LB147, § 7; Laws 2022, LB700, § 8; Laws 2024, LB198, § 13.

Effective date March 19, 2024.

#### Cross References

For supplemental retirement benefits, see sections 79-941 to 79-947.  
Nebraska State Funds Investment Act, see section 72-1260.

#### **79-978.01 Act, how cited.**

Sections 79-978 to 79-9,124 shall be known and may be cited as the Class V School Employees Retirement Act.

**Source:** Laws 1998, LB 497, § 7; Laws 2011, LB509, § 33; Laws 2016, LB447, § 15; Laws 2017, LB415, § 35; Laws 2019, LB31, § 1; Laws 2019, LB34, § 17; Laws 2021, LB147, § 8.

#### **79-979 Class V school district; employees' retirement system; established.**

(1) Prior to September 13, 1997, in each Class V school district in the State of Nebraska there is hereby established a separate retirement system for all employees of such school district. Such system shall be for the purpose of providing retirement benefits for all employees of the school district as provided in the Class V School Employees Retirement Act. The system shall be known as School Employees' Retirement System of (corporate name of the school district as described in section 79-405). All of its business shall be transacted, all of its funds shall be invested, and all of its cash and securities and other property shall be held in trust on behalf of the retirement system for the purposes set forth in the act. Such funds shall be kept separate from all other funds of the school district and shall be used for no other purpose.

(2) Except as provided in subsection (3) of this section, if any new Class V school districts are formed after September 13, 1997, such new Class V school district shall elect to become or remain a part of the retirement system established pursuant to the School Employees Retirement Act.

(3) Any new Class V school districts formed pursuant to the Learning Community Reorganization Act shall continue to participate in the retirement system established pursuant to the Class V School Employees Retirement Act if such new Class V school district was formed at least in part by territory that had been in a Class V school district that participated in the retirement system established pursuant to the Class V School Employees Retirement Act.

**Source:** Laws 1951, c. 274, § 2, p. 912; Laws 1988, LB 1142, § 10; R.S.1943, (1994), § 79-1033; Laws 1996, LB 900, § 614; Laws 1997, LB 623, § 29; Laws 1997, LB 624, § 22; Laws 1998, LB 497, § 8; Laws 2006, LB 1024, § 60; Laws 2016, LB447, § 16; Laws 2021, LB147, § 9.

## Cross References

Learning Community Reorganization Act, see section 79-4,117.  
School Employees Retirement Act, see section 79-901.

**79-979.01 Employees retirement system; transition and transfer of management and general administration; plan; consistent with work plan; powers and duties; costs, fees, and expenses.**

(1)(a) The board of trustees or its designee, the school district, the board of education or its designee, and the retirement board shall enter into a plan for the transition and transfer of management and general administration of the retirement system from the board of trustees, the school district, and board of education to the retirement board.

(b) The plan shall be consistent with the applicable requirements and recommendations of the work plan submitted to the Clerk of the Legislature as required by section 79-9,121. The plan shall be completed no later than December 31, 2021, and shall also address additional duties, obligations, and examinations related to the transition and transfer of management and the retirement system to the retirement board as described in the Class V School Employees Retirement Act as amended by Laws 2021, LB147. A copy of the plan described in this section shall be filed with the Nebraska Retirement Systems Committee of the Legislature and the Governor upon completion.

(2) The board of trustees, the school district, and the board of education shall timely provide to the retirement board all records, documents, member and annuitant data, agreements, accounting and record-keeping systems, information technology, and other information related to the administration of the retirement system as may be necessary or appropriate for the performance and completion of the work plan required by section 79-9,121, the plan described in subsection (1) of this section, and any other duties and obligations related to the transition and transfer of management and general administration of the retirement system requested by the director of the Nebraska Public Employees Retirement Systems.

(3)(a) All costs, fees, and expenses incurred by the retirement board on or after May 27, 2021, until September 1, 2025, related to the transition and transfer of management and general administration of the retirement system to the retirement board shall be paid by an employer of the retirement system.

(b) The retirement board may bill an employer of the retirement system monthly for all services and expenses relating to the work performed as required in the Class V School Employees Retirement Act by the retirement board and the Nebraska Public Employees Retirement Systems staff, consultants, and contractors. An employer shall remit payment as provided in section 79-9,122 and within the time period and in the manner negotiated in the transition and transfer of management and administration plan entered into pursuant to this section.

(4) No later than September 1, 2024, except for information technology stabilization work performed until September 1, 2025, the retirement board or its designee shall complete the applicable requirements and carry out recommendations consistent with the work plan and the plan entered into as described in subsection (1) of this section for the transition and transfer of management and general administration of the retirement system to the retirement board that was submitted to the Clerk of the Legislature as required by section 79-9,121. The retirement board is authorized to perform such tasks,

enter into contracts for services, access and copy administrative and computer systems and records of the retirement system, and generally perform and take all other action it determines necessary or appropriate to transfer the management and general administration of the retirement system to the retirement board.

(5)(a) Beginning September 1, 2024, the school district and board of education shall not have any duty or authority for management, operation, or general administration of the retirement system except for reporting requirements and funding obligations as described in the Class V School Employees Retirement Act.

(b) On and after such date, the retirement board, acting through the director of the Nebraska Public Employees Retirement Systems, shall have the duty and authority for the management, operation, and general administration of the retirement system. Such duty and authority of the retirement board and its officers, employees, or assigns does not include financial responsibility or liability for funding obligations of the retirement system which remain the responsibility of the school district as described in the Class V School Employees Retirement Act.

**Source:** Laws 2021, LB147, § 16.

**79-979.02 Employees retirement system; immunity from liability, when.**

(1) Beginning September 1, 2024, the State of Nebraska, the retirement board, the Nebraska Public Employees Retirement Systems, and their respective officers, members, employees, and agents shall be indemnified and held harmless by the school district and board of education from any and all liabilities, claims, suits, losses, damages, and costs that arise from, or are reasonably related to, any conduct, decision, action, inaction, or omission of the board of trustees, the board of education, or the school district or any consequences arising thereof during the course of performing their respective duties and responsibilities for, or actions or services related to or in support of, the retirement system under the Class V School Employees Retirement Act prior to September 1, 2024.

(2) The school district of a retirement system described under the Class V School Employees Retirement Act shall remain at all times and in all circumstances solely liable for all funding obligations and responsibilities as described in the act.

(3) At no time and under no circumstances shall the State of Nebraska, the Nebraska Public Employees Retirement Systems, the retirement board, or any other state entity or its officers, employees, or assigns with duties related to the Class V school employees retirement system be liable for any funding obligations of any Class V school employees retirement system.

(4) The retirement board shall not be liable for any acts or omissions occurring prior to September 1, 2024, in the administration of the Class V School Employees Retirement Act and made at the direction of or by the board of trustees or its employees, the school district or its employees, or the board of education.

(5) A member of the board of education, the board of trustees, or the retirement board shall not be personally liable for any action related to such

board member's retirement duties except in cases of willful dishonesty, gross negligence, or intentional violation of law.

(6) Except as otherwise provided in this section, the school district shall not be liable for any act or omission in the administration of the Class V School Employees Retirement Act made at the direction of the retirement board or the administrator of the Nebraska Public Employees Retirement Systems or its employees on and after September 1, 2024.

**Source:** Laws 2021, LB147, § 17.

**79-980 Employees retirement system; administration; board of trustees; members; terms; vacancy; expenses; liability; termination; effect.**

(1) Until July 1, 2021:

(a) At any time that the retirement system consists of only one Class V school district, the general administration of the retirement system is hereby vested in the board of trustees;

(b) Beginning July 1, 2016, the board of trustees shall consist of the following individuals: (i) Two members of the retirement system who are certificated staff elected by the members of the retirement system who are certificated staff; (ii) one member of the retirement system who is classified staff elected by the members of the retirement system who are classified staff; (iii) one member of the retirement system who is an annuitant elected by the members of the retirement system who are annuitants; (iv) the superintendent of schools or his or her designee to serve as a voting, ex officio trustee; and (v) two business persons approved by the board of education qualified in financial affairs who are not members of the retirement system. The business person trustees shall be recommended to four-year terms by the trustees who are not business persons, and the appointments shall be approved by the board of education. The elections of the trustees who are members of the retirement system shall be arranged for, managed, and conducted by the board of trustees and, after the initial terms as otherwise designated, shall be for terms of four years. One certificated staff trustee serving on July 1, 2016, will continue serving until an elected certificated staff trustee will take position effective July 1, 2017; the second certificated staff trustee serving on July 1, 2016, will continue serving until a second elected certificated staff trustee will take position July 1, 2018; the classified staff trustee serving on July 1, 2016, will continue serving until an elected classified staff trustee will take position July 1, 2019; the annuitant member trustee serving on July 1, 2016, will continue serving until an elected annuitant member trustee will take position July 1, 2020; one business member trustee serving on July 1, 2016, will continue serving until a new term of office begins effective July 1, 2018; and the second business member trustee serving on July 1, 2016, will continue serving until a new term of office begins effective July 1, 2020. The terms of the elected trustees shall be fixed so that one member trustee election shall be held each year. The board of trustees shall appoint a qualified individual to fill any vacancy on the board of trustees for the remainder of the unexpired term. No vacancy or vacancies on the board of trustees shall impair the power of the remaining trustees to administer the retirement system pending the filling of such vacancy or vacancies. The trustees shall serve without compensation, but shall be reimbursed from the funds of the retirement system for expenses that they may incur through service on the board of trustees as provided in sections 81-1174 to 81-1177. A trustee shall

serve until a successor qualifies, except that a trustee who is a member of the retirement system shall be disqualified as a trustee immediately upon ceasing to be a member of the retirement system. The terms of all trustees under this subsection shall end on June 30, 2021. Each trustee shall be entitled to one vote on the board of trustees, and four trustees shall constitute a quorum for the transaction of any business. The board of trustees and the administrator of the retirement system shall administer the retirement system in compliance with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code, as defined in section 49-801.01, including: Section 401(a)(9) of the Internal Revenue Code relating to the time and manner in which benefits are required to be distributed, including the incidental death benefit distribution requirement of section 401(a)(9)(G) of the Internal Revenue Code; section 401(a)(25) of the Internal Revenue Code relating to the specification of actuarial assumptions; section 401(a)(31) of the Internal Revenue Code relating to direct rollover distributions from eligible retirement plans; and section 401(a)(37) of the Internal Revenue Code relating to the death benefit of a member whose death occurs while performing qualified military service. No member of the board of education or board of trustees shall be personally liable, except in cases of willful dishonesty, gross negligence, or intentional violations of law, for actions relating to his or her retirement system duties; and

(c) Beginning July 1, 2016, and until July 1, 2021, the board of education shall not have any duty or responsibility for the general administration of the retirement system, including the determination and calculation of the benefits of any member or beneficiary, except as may specifically be provided in the Class V School Employees Retirement Act.

(2) Beginning July 1, 2021, and until September 1, 2024:

(a) At any time that the retirement system consists of only one Class V school district, the general administration of the retirement system is hereby vested in the board of education;

(b)(i) The board of education, by a majority vote of all its members, shall appoint seven trustees to serve as executive officers to administer the Class V School Employees Retirement Act. Such trustees shall consist of (A) the superintendent of the school district or his or her designee to serve as a voting, ex officio trustee, (B) two members of the retirement system, one of whom shall be a teacher, (C) two members of the board of education, and (D) two trustees who are business persons qualified in financial affairs and who are not members of the retirement system. Each trustee shall be entitled to one vote on the board of trustees. The board of education shall take action within fifteen days of May 27, 2021, to appoint the new members of the board of trustees as required in this section. The new members shall begin their service on the board of trustees on July 1, 2021;

(ii) Except for the initial appointments made immediately following May 27, 2021, the term of a trustee shall be one fiscal year except the terms of the two trustees who are not members of the board of education or the retirement system shall each be three fiscal years or until September 1, 2024, whichever is later. A trustee shall serve until a successor qualifies, except a trustee who is a member of the board of education shall be disqualified as a trustee immediately upon ceasing to be a member of the board of education. No vacancy on the

board of trustees shall impair the power of the remaining trustees to administer the retirement system pending the filling of such vacancy; and

(iii) The trustees shall serve without compensation, but shall be reimbursed from the funds of the retirement system for expenses that they may incur through service as trustees as provided in sections 81-1174 to 81-1177;

(c) In addition to duties and responsibilities as otherwise described in the Class V School Employees Retirement Act, the board of trustees shall, as directed by the board of education, facilitate the transition and transfer of management and general administration of the retirement system effective September 1, 2024, to the retirement board;

(d) The board of trustees and the administrator of the retirement system, shall administer the retirement system in compliance with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code, as defined in section 49-801.01, including, but not limited to: Section 401(a)(9) of the Internal Revenue Code relating to the time and manner in which benefits are required to be distributed, including the incidental death benefit distribution requirement of section 401(a)(9)(G) of the Internal Revenue Code; section 401(a)(25) of the Internal Revenue Code relating to the specification of actuarial assumptions; section 401(a)(31) of the Internal Revenue Code relating to direct rollover distributions from eligible retirement plans; and section 401(a)(37) of the Internal Revenue Code relating to the death benefit of a member whose death occurs while performing qualified military service; and

(e) No member of the board of education or board of trustees shall be personally liable, except in cases of willful dishonesty, gross negligence, or intentional violations of law, for actions relating to such member's retirement system duties.

(3)(a) Effective September 1, 2024, the board of trustees described in subsection (2) of this section shall terminate, the terms of the trustees shall end, and the retirement board shall assume administration of the retirement system. Administration by the retirement board does not include financial responsibility or liability of the funding obligation for the retirement system which remain with the school district as described in the Class V School Employees Retirement Act, nor does it include responsibility for investment of funds, which authority and responsibility shall be retained by the council and the state investment officer.

(b) On and after such date, the retirement board shall have the duties and authorities provided to the retirement board in section 84-1503 for the administration of the retirement system, and its administrative duties shall be performed by the Nebraska Public Employees Retirement Systems under the direction of the retirement board.

(4) Until July 1, 2021:

(a) At any time that the retirement system consists of more than one Class V school district, the general administration of the retirement system is hereby vested in the board of trustees;

(b) The board of trustees shall consist of the following individuals: (i) Two members of the retirement system who are certificated staff elected by the members of the retirement system who are certificated staff; (ii) one member of the retirement system who is classified staff elected by the members of the

retirement system who are classified staff; (iii) one member of the retirement system who is an annuitant elected by the members of the retirement system who are annuitants; (iv) the superintendent of each of the school districts represented in the retirement system or his or her designee to serve as a voting, ex officio trustee; and (v) two business persons approved by the board of education qualified in financial affairs who are not members of the retirement system. The elections of the trustees who are members of the retirement system shall be arranged for, managed, and conducted by the board of trustees and, after the initial terms as otherwise designated, shall be for terms of four years. The business person trustees shall be recommended to four-year terms by the trustees who are not business persons, and the appointments shall be approved by the board of education. The board of trustees shall appoint a qualified individual to fill any vacancy on the board of trustees for the remainder of the unexpired term. No vacancy or vacancies on the board of trustees shall impair the power of the remaining trustees to administer the retirement system pending the filling of such vacancy or vacancies. The trustees shall serve without compensation, but shall be reimbursed from the funds of the retirement system for expenses that they may incur through service on the board of trustees as provided in sections 81-1174 to 81-1177. A trustee shall serve until a successor qualifies, except that a trustee who is a member of the retirement system shall be disqualified as a trustee immediately upon ceasing to be a member of the retirement system. The terms of all trustees under this subsection shall end on June 30, 2021. Each trustee shall be entitled to one vote on the board of trustees, and four trustees shall constitute a quorum for the transaction of any business. The board of trustees and the administrator of the retirement system shall administer the retirement system in compliance with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code, as defined in section 49-801.01, including: Section 401(a)(9) of the Internal Revenue Code relating to the time and manner in which benefits are required to be distributed, including the incidental death benefit distribution requirement of section 401(a)(9)(G) of the Internal Revenue Code; section 401(a)(25) of the Internal Revenue Code relating to the specification of actuarial assumptions; section 401(a)(31) of the Internal Revenue Code relating to direct rollover distributions from eligible retirement plans; and section 401(a)(37) of the Internal Revenue Code relating to the death benefit of a member whose death occurs while performing qualified military service. No member of the board of education or board of trustees shall be personally liable, except in cases of willful dishonesty, gross negligence, or intentional violations of law, for actions relating to his or her retirement system duties; and

(c) The board of education shall not have any duty or responsibility for the general administration of the retirement system, including the determination and calculation of the benefits of any member or beneficiary, except as may specifically be provided in the Class V School Employees Retirement Act.

(5) Beginning July 1, 2021, and until September 1, 2024:

(a) At any time that the retirement system consists of more than one Class V school district, the general administration of the retirement system is hereby vested in the board of education;

(b)(i) The board of education, by a majority vote of all its members, shall appoint seven trustees to serve as executive officers to administer the Class V School Employees Retirement Act. Such trustees shall consist of (A) the

superintendent of such school district or his or her designee to serve as a voting, ex officio trustee, (B) two members of the retirement system, one of whom shall be a teacher, (C) two members of the board of education, and (D) two trustees who are business persons qualified in financial affairs and who are not members of the retirement system. Each trustee shall be entitled to one vote on the board of trustees. The board of education shall take action within fifteen days of May 27, 2021, to appoint the new members of the board of trustees as required in this section. The new members shall begin their service on the board of trustees on July 1, 2021;

(ii) Except for the initial appointments made immediately following May 27, 2021, the term of a trustee shall be one fiscal year except the terms of the two trustees who are not members of the board of education or the retirement system shall each be three fiscal years or until September 1, 2024, whichever is later. A trustee shall serve until a successor qualifies, except a trustee who is a member of the board of education shall be disqualified as a trustee immediately upon ceasing to be a member of the board of education. No vacancy on the board of trustees shall impair the power of the remaining trustees to administer the retirement system pending the filling of such vacancy; and

(iii) The trustees shall serve without compensation, but shall be reimbursed from the funds of the retirement system for expenses that they may incur through service as trustees as provided in sections 81-1174 to 81-1177;

(c) The board of education shall have the duty and responsibility for the general administration of the retirement system except as specifically provided in the Class V School Employees Retirement Act;

(d) In addition to duties and responsibilities as otherwise described in the Class V School Employees Retirement Act, the board of trustees shall, as directed by the board of education, facilitate the transition and transfer of management and general administration of the retirement system effective September 1, 2024, to the retirement board;

(e) The board of trustees and the administrator of the retirement system, shall administer the retirement system in compliance with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code, as defined in section 49-801.01, including, but not limited to: Section 401(a)(9) of the Internal Revenue Code relating to the time and manner in which benefits are required to be distributed, including the incidental death benefit distribution requirement of section 401(a)(9)(G) of the Internal Revenue Code; section 401(a)(25) of the Internal Revenue Code relating to the specification of actuarial assumptions; section 401(a)(31) of the Internal Revenue Code relating to direct rollover distributions from eligible retirement plans; and section 401(a)(37) of the Internal Revenue Code relating to the death benefit of a member whose death occurs while performing qualified military service; and

(f) No member of the board of education or board of trustees shall be personally liable, except in cases of willful dishonesty, gross negligence, or intentional violations of law, for actions relating to such member's retirement system duties.

(6)(a) Effective September 1, 2024, the board of trustees described in subsection (5) of this section shall terminate, the terms of the trustees shall end, and the retirement board shall assume administration of the retirement system. Administration by the retirement board does not include financial responsibility



or liability of the funding obligation for the retirement system which remain with the school district as described in the Class V School Employees Retirement Act, nor does it include responsibility for investment of funds, which authority and responsibility shall be retained by the council and the state investment officer.

(b) On and after such date, the retirement board shall have the duties and authorities provided to the retirement board in section 84-1503 for the administration of the retirement system, and its administrative duties shall be performed by the Nebraska Public Employees Retirement Systems under the direction of the retirement board.

**Source:** Laws 1951, c. 274, § 3, p. 913; Laws 1963, c. 490, § 1, p. 1564; Laws 1979, LB 135, § 1; Laws 1981, LB 204, § 157; Laws 1993, LB 107, § 2; Laws 1995, LB 505, § 2; R.S.Supp.,1995, § 79-1034; Laws 1996, LB 900, § 615; Laws 1998, LB 497, § 9; Laws 2001, LB 711, § 5; Laws 2006, LB 1024, § 61; Laws 2012, LB916, § 24; Laws 2014, LB1042, § 8; Laws 2016, LB447, § 17; Laws 2021, LB147, § 10.

**79-981 Employees retirement system; board of trustees; board of education; rules and regulations; transition of administration; employees compensation; records required; investment expenses.**

(1) Until July 1, 2021:

(a) The board of trustees shall from time to time establish rules and regulations for the administration of the retirement system and for the transaction of its business and shall appoint an administrator of the retirement system;

(b) The board of trustees may contract for such medical and other services as shall be required to transact the business of the retirement system;

(c) Beginning on March 31, 2016, neither the board of education nor the board of trustees shall establish any further rules or regulations related to the investment of the assets of the retirement system without first consulting with the state investment officer. Beginning January 1, 2017, all rules and regulations adopted and promulgated under this section related to the investment of assets of the retirement system terminate;

(d) Compensation for all persons employed by the board of trustees and all other expenses of the board of trustees necessary for the proper and efficient operation of the retirement system shall be paid in such amounts as the board of trustees determines and approves; and

(e) In addition to such duties and other duties arising out of the Class V School Employees Retirement Act not specifically reserved or assigned to others, the board of education shall maintain a separate account of each member's retirement account information as indicated in section 79-989, the record of which shall be available in a timely manner to the member and the board of trustees upon request. The board of trustees shall compile such data as may be necessary for the required actuarial valuation, consider and pass on all applications for annuities or other benefits and have examinations made when advisable of persons receiving disability benefits, and direct and determine all policies necessary in the administration of the act.

(2) Beginning July 1, 2021, and until September 1, 2024:

(a) The board of education shall:

(i) Establish rules and regulations for the administration of the retirement system, transaction of its business, and to facilitate the transition and transfer of management and general administration of the retirement system effective September 1, 2024, to the retirement board;

(ii) Direct the board of trustees to establish policies and rules and regulations for the transaction of its business and administration of the retirement system and to facilitate the transition and transfer of management and general administration of the retirement system effective September 1, 2024, to the retirement board; and

(iii) Appoint an administrator of the retirement system;

(b) The board of education may contract for such medical and other services as shall be required to transact the business of the retirement system;

(c) Compensation for all persons employed by the board of education and all other expenses of the board of trustees necessary for the proper and efficient operation of the retirement system shall be paid in such amounts as the board of education determines and approves; and

(d) In addition to such duties and other duties arising out of the Class V School Employees Retirement Act not specifically reserved or assigned to others, the board of education shall:

(i) Maintain a separate account of each member's contributions, the record of which shall be available to the member and the board of trustees in a timely manner upon request;

(ii) Compile such data as may be necessary for the required actuarial valuation;

(iii) Consider and pass on all applications for annuities or other benefits;

(iv) Have examinations made when advisable of persons receiving disability benefits; and

(v) Direct and determine all policies necessary in the administration of the Class V School Employees Retirement Act.

(3) Beginning September 1, 2024, the retirement board shall:

(a) Administer the retirement system pursuant to its duties in section 84-1503 and the provisions of the Class V School Employees Retirement Act;

(b) Maintain a separate account of each member's retirement account information as indicated in section 79-989, which shall be available to the member;

(c) Compile such data as may be necessary for the required actuarial valuation;

(d) Consider and vote on all applications for annuities or other benefits;

(e) Have examinations made when advisable of persons receiving disability benefits; and

(f) Direct and determine all policies and procedures necessary in the administration of the Class V School Employees Retirement Act.

(4) All expenses on and after January 1, 2017, related to the investment of the assets of the retirement system shall be paid in such amounts as the state investment officer determines and approves.

**Source:** Laws 1951, c. 274, § 4, p. 913; Laws 1985, LB 215, § 2; Laws 1991, LB 350, § 2; R.S.1943, (1994), § 79-1035; Laws 1996, LB

900, § 616; Laws 1998, LB 497, § 10; Laws 2001, LB 711, § 6; Laws 2006, LB 1024, § 62; Laws 2016, LB447, § 18; Laws 2021, LB147, § 11.

**79-982 Employees retirement system; board of trustees; meetings; duties; transition; termination.**

(1) Until July 1, 2021, the board of trustees shall (a) hold regular meetings annually and such special meetings at such times as may be deemed necessary, which meetings shall be open to the public, (b) keep a record of all the proceedings of such meetings, (c) prior to January 1, 2017, and subject to the approval of the board of education, invest all cash income not required for current payments in securities of the type provided in section 79-9,107 and so reinvest the proceeds from the sale or redemption of investments, and (d) supervise the affairs of the retirement system related to the administration of benefits and approve any changes in the administration of the retirement system essential to the actuarial requirements of the retirement system.

(2) Beginning July 1, 2021, until September 1, 2024, the board of trustees, as directed by the board of education shall (a) hold regular meetings annually and such special meetings at such times as may be deemed necessary, which meetings shall be open to the public, (b) keep a record of all the proceedings of such meetings, (c) supervise the affairs of the retirement system related to the administration of benefits and recommend to the board of education any changes in the administration of the retirement system essential to the actuarial requirements of the retirement system, and (d) facilitate the transition and transfer of management and general administration of the retirement system to the retirement board effective September 1, 2024.

(3) Effective September 1, 2024, the board of trustees shall not have any duty or responsibility for the general administration of the retirement system, and the board of trustees and the terms of the members shall terminate.

**Source:** Laws 1951, c. 274, § 5, p. 914; Laws 1955, c. 321, § 1, p. 992; Laws 1979, LB 187, § 242; Laws 1993, LB 107, § 3; R.S.1943, (1994), § 79-1036; Laws 1996, LB 900, § 617; Laws 2001, LB 711, § 7; Laws 2016, LB447, § 19; Laws 2021, LB147, § 12.

**79-982.01 Employees retirement system; board of trustees; board of education; fiduciaries; duties.**

(1) The members of the board of trustees shall have the responsibility for the administration of the retirement system pursuant to section 79-982 until September 1, 2024.

(2)(a) Until September 1, 2024, the board of trustees shall be deemed fiduciaries with respect to the administration of the retirement system, and shall be held to the standard of conduct of a fiduciary specified in subdivision (b) of this subsection.

(b) As fiduciaries, the members of the board of trustees shall:

(i) Discharge their duties with respect to the retirement system solely in the interests of the members and beneficiaries of the retirement system for the exclusive purposes of providing benefits to members and members' beneficiaries and defraying reasonable expenses incurred within the limitations and

according to the powers, duties, and purposes prescribed by law at the time such duties are discharged;

(ii) Not have a duty in their official capacity to seek the enhancement of plan benefits through the legislative process if such benefits are not already contained within the plan documents; and

(iii) Act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(3)(a) Beginning July 1, 2021, and until September 1, 2024, the members of the board of education shall:

(i) Have the responsibility for the administration of the retirement system pursuant to section 79-982;

(ii) Be deemed fiduciaries with respect to the administration of the retirement system; and

(iii) Be held to the standard of conduct of a fiduciary specified in subdivision (b) of this subsection.

(b) As fiduciaries, the members of the board of education shall:

(i) Discharge their duties with respect to the retirement system solely in the interests of the members and beneficiaries of the retirement system for the exclusive purposes of providing benefits to members and members' beneficiaries and defraying reasonable expenses incurred within the limitations and according to the powers, duties, and purposes prescribed by law at the time such duties are discharged;

(ii) Not have a duty in their official capacity to seek the enhancement of plan benefits through the legislative process if such benefits are not already contained within the plan documents; and

(iii) Act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

**Source:** Laws 2016, LB447, § 20; Laws 2021, LB147, § 13.

**79-982.02 Employees retirement system; administration; transition; investment of assets; plan for transition of investment authority; contents; board of trustees; duties; costs, fees, and expenses; state investment officer; report.**

(1)(a) Beginning January 1, 2017, the board of trustees, the board of education, and beginning September 1, 2024, the retirement board shall not have the duty or authority to invest the assets of the retirement system, and the council and the state investment officer shall have the duty and authority to invest such assets in accordance with the Nebraska State Funds Investment Act. Until September 1, 2024, the board shall be responsible for administering the noninvestment affairs of the retirement system, including the payment of plan benefits and management of the actuarial requirements of the retirement system.

(b) Beginning September 1, 2024, the retirement board shall be responsible for administering the noninvestment affairs of the retirement system including the disbursement of plan benefits and management of the actuarial require-

ments of the retirement system. Administration does not include financial responsibility or liability for the funding obligation for the retirement system which remain with the school district as described in the Class V School Employees Retirement Act.

(2) On or before July 1, 2016, the board of trustees, or its designee, and the state investment officer shall enter into a plan for the transition of the investment authority from the board of trustees to the council. The plan shall include, but not be limited to, the following items:

(a) The board of trustees shall provide to the state investment officer by July 1, 2016, an accounting of the assets in the retirement system and a detailed description of the investments;

(b) The board of trustees shall provide to the state investment officer by July 1, 2016, a list containing the name, mailing address, telephone number, and email address of all managers, advisers, and custodians who are providing services related to the assets of the retirement system;

(c) The board of trustees shall provide to the state investment officer by July 1, 2016, a copy of all agreements and instruments related to the investment, management, and custody of the assets;

(d) The board of trustees shall assign investment authority and responsibility for investment-related agreements and instruments to the council by January 1, 2017, as determined by the state investment officer in his or her sole discretion;

(e) The board of trustees shall provide to the state investment officer by July 1, 2016, a copy of the most recent asset liability study, and in its sole discretion, the council may require the preparation of an updated asset liability study;

(f) The board of trustees shall provide to the state investment officer by July 1, 2016, a copy of the most recent actuarial valuation and audited certified annual financial report of the plan; and

(g) The state investment officer and the board of trustees shall identify items that will need to be addressed prior to the transition of investment authority on January 1, 2017.

(3) All costs, fees, and expenses incurred after March 31, 2016, related to the transition of the investment authority on January 1, 2017, from the board of trustees and the board of education to the council and the state investment officer shall be paid from the assets of a retirement system provided for under the Class V School Employees Retirement Act and to the extent such costs, fees, and expenses are incurred by the council or the state investment officer, they shall be paid in accordance with sections 72-1249 and 72-1249.02.

(4) The state investment officer shall provide a quarterly report to the board until September 1, 2024, and beginning September 1, 2024, to the retirement board regarding the assets of the retirement system and related costs, fees, and expenses.

**Source:** Laws 2016, LB447, § 21; Laws 2021, LB147, § 14.

**Cross References**

Nebraska State Funds Investment Act, see section 72-1260.

**79-983 Employees retirement system; administrator; appointment; termination; retirement system staff.**

(1) Until July 1, 2021, the administrator of the retirement system shall be appointed by the board of trustees and approved by the board of education and shall serve at the pleasure of the board of trustees. Beginning July 1, 2021, the administrator of the retirement system shall be appointed by the board of education. The administrator shall hire, dismiss, and otherwise supervise the other staff of the retirement system as approved and directed by the board, shall keep the minutes and records of the retirement system, shall be the executive officer in charge of the administration of the detailed affairs of the retirement system, and shall perform such other duties as may be assigned by the board. The administrator and retirement system staff shall be employees of the Class V school district, with compensation and the benefits as available to school district employees determined by the board. The retirement system shall reimburse the Class V school district for all employee costs of salary, employment taxes, and benefits provided to the administrator and retirement system staff. The administrator shall serve as a nonvoting, ex officio member of the council and shall not be deemed a fiduciary of the council.

(2) Effective September 1, 2024, the position of the administrator and all retirement system staff positions shall terminate. The administrator duties shall be assumed by the director appointed by the retirement board pursuant to section 84-1503.

**Source:** Laws 1951, c. 274, § 6, p. 915; Laws 1991, LB 350, § 3; R.S.1943, (1994), § 79-1037; Laws 1996, LB 900, § 618; Laws 2006, LB 1024, § 63; Laws 2016, LB447, § 22; Laws 2021, LB147, § 15.

#### **79-984 Employees retirement system; actuary; duties.**

(1) Until July 1, 2021, the board of trustees shall contract for the services of an actuary who shall be the technical advisor of the board of trustees on matters regarding the operation of the retirement system. The selection of the actuary shall be approved by the board of education. The actuary shall (a) make a general investigation of the operation of the retirement system annually, which investigation shall cover mortality, retirement, disability, employment, turnover, interest, and earnable compensation, and (b) recommend tables to be used for all required actuarial calculations. The actuary shall perform such other duties as may be assigned by the board of trustees.

(2) Beginning July 1, 2021, and until September 1, 2024, the board of education shall contract for the services of an actuary who shall be the technical advisor of the board of education and the board of trustees on matters regarding the operation of the retirement system. The actuary shall:

(a) Make a general investigation of the operation of the retirement system annually, which investigation shall cover mortality, retirement, disability, employment, turnover, interest, and earnable compensation;

(b) Recommend tables to be used for all required actuarial calculations; and

(c) Perform such other duties as may be assigned by the board of education.

(3) Beginning September 1, 2024, the retirement board shall select and appoint the actuary for the retirement system pursuant to section 84-1503.

**Source:** Laws 1951, c. 274, § 7, p. 915; R.S.1943, (1994), § 79-1038; Laws 1996, LB 900, § 619; Laws 1998, LB 497, § 11; Laws 2001, LB 711, § 8; Laws 2006, LB 1024, § 64; Laws 2013, LB263, § 21; Laws 2016, LB447, § 23; Laws 2021, LB147, § 18.

**79-985 Employees retirement system; legal advisor.**

The board may contract for the services of a legal advisor to the board of trustees until September 1, 2024. Beginning September 1, 2024, the attorney hired by the retirement board pursuant to section 84-1503 shall also advise such board regarding the administration of the retirement system.

**Source:** Laws 1951, c. 274, § 8, p. 915; R.S.1943, (1994), § 79-1039; Laws 1996, LB 900, § 620; Laws 2006, LB 1024, § 65; Laws 2016, LB447, § 24; Laws 2021, LB147, § 19.

**79-986 Employees retirement system; State Treasurer as treasurer; when; school district; duties.**

(1) The State Treasurer shall (a) act as treasurer of the retirement system and the official custodian of the cash and securities belonging to such retirement system, (b) provide adequate safe deposit facilities for the preservation of such securities, and (c) hold such cash and securities subject to the order of the council.

(2) The school district and the Nebraska Public Employees Retirement Systems, as applicable, shall receive all items of taxes or cash belonging to the retirement system as specified in the Class V School Employees Retirement Act and shall deposit in banks approved by the State Treasurer all such amounts in trust or custodial accounts. Notwithstanding any limitations elsewhere imposed by statute on the location of the retirement system's depository bank, such limitations shall not apply to the use of depository banks for the custody of the system's cash, securities, and other investments.

(3) The State Treasurer as treasurer of the retirement system shall make payments to the school district upon request of the administrator of a retirement system provided for under the Class V School Employees Retirement Act and as directed by the Nebraska Public Employees Retirement Systems. The school district shall use payments received from the State Treasurer to make payments for purposes specified in the Class V School Employees Retirement Act.

(4) Beginning September 1, 2024, the State Treasurer as treasurer of the retirement system shall disburse money from funds in his or her custody belonging to the retirement system for the purposes specified in the Class V School Employees Retirement Act. The State Treasurer, along with the Director of Administrative Services, shall make such disbursements upon vouchers signed by a person authorized by the retirement board.

(5) All banks and custodians which receive and hold securities and investments for the retirement system may hold and evidence such securities by book entry account rather than obtaining and retaining the original certificate, indenture, or governing instrument for such security.

**Source:** Laws 1951, c. 274, § 9, p. 915; Laws 1988, LB 1142, § 11; Laws 1995, LB 505, § 3; Laws 1996, LB 604, § 11; R.S.Supp.,1995, § 79-1040; Laws 1996, LB 900, § 621; Laws 1997, LB 623, § 30; Laws 1998, LB 497, § 12; Laws 2006, LB 1024, § 66; Laws 2016, LB447, § 25; Laws 2021, LB147, § 20.

**79-987 Employees retirement system; audits; cost; report; school district; reporting and filing requirements.**

(1)(a) Until January 1, 2022, an annual audit of the affairs of the retirement system shall be conducted in each fiscal year. At the option of the board of trustees, such audit may be conducted by a certified public accountant or the Auditor of Public Accounts.

(b) Beginning January 1, 2022, and each January 1 through January 1, 2024, it shall be the duty of the Auditor of Public Accounts to make an annual audit of the immediately preceding audit year of the condition of the retirement system. The auditor shall report such audit no later than July 1, 2022, and on each July 1 through July 1, 2024, and shall electronically submit the audit report to the board of trustees, the board of education, the retirement board, the Nebraska Retirement Systems Committee of the Legislature, and the Clerk of the Legislature. The cost of each such annual audit shall be charged to the retirement system. At the request of the Nebraska Retirement Systems Committee of the Legislature, the Auditor of Public Accounts, or the auditor's designee, shall present the audit report to the committee at a public hearing.

(c) Following transfer of management of the retirement system to the Public Employees Retirement Board on September 1, 2024, the Auditor of Public Accounts shall make an annual audit of the retirement system beginning January 1, 2025, and electronically submit an annual report to the Clerk of the Legislature of its condition. Expenses of the audits shall be paid from the Class V School Expense Fund.

(2)(a) Beginning May 1, 2018, and until July 1, 2021, the board of trustees shall cause to be prepared an annual report and the administrator shall file the same with the Auditor of Public Accounts and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report submitted to the committee and the Auditor of Public Accounts shall be submitted electronically. The report shall consist of a full actuarial analysis of each such retirement plan established pursuant to section 79-979. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members of the American Academy of Actuaries and meet the academy's qualification standards to render a statement of actuarial opinion, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan. The report shall be presented to the Nebraska Retirement Systems Committee of the Legislature at a public hearing.

(b) Beginning July 1, 2021, through July 1, 2024, the board shall file with the Auditor of Public Accounts an electronic copy of the annual actuarial investigation of the retirement system prepared pursuant to section 79-984 and submit electronically a copy of such investigation to the Nebraska Retirement Systems Committee of the Legislature.

(3) Beginning July 1, 2021, each school district with a retirement system under the Class V School Employees Retirement Act shall comply with the reporting and filing requirements set forth in section 13-2402.

**Source:** Laws 1951, c. 274, § 19, p. 921; Laws 1973, LB 215, § 1; R.S.1943, (1994), § 79-1050; Laws 1996, LB 900, § 622; Laws 1998, LB 1191, § 61; Laws 1999, LB 795, § 13; Laws 2001, LB 711, § 9; Laws 2006, LB 1019, § 10; Laws 2011, LB509, § 34;



Laws 2012, LB782, § 157; Laws 2013, LB263, § 22; Laws 2014, LB1042, § 9; Laws 2016, LB447, § 26; Laws 2017, LB415, § 36; Laws 2021, LB147, § 21.

**79-987.01 Contract of employment; contents.**

Beginning January 1, 2023, every contract of employment with an employee shall specify (1) the contractual period of employment, including the starting and ending dates of the contract, and (2) that it is subject to the provisions of the Class V School Employees Retirement Act.

**Source:** Laws 2021, LB147, § 23.

**79-988 Employees retirement system; membership; separate employment; effect.**

(1) Any person who becomes an employee on or after the date of establishment of the retirement system shall become a member of the retirement system upon employment. Contributions by such employee under the Class V School Employees Retirement Act shall begin with the first payroll period after becoming a member, and creditable service shall then begin to accrue.

(2) Any employee who qualifies for membership in the retirement system pursuant to subsection (1) of this section may not be disqualified for membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public retirement system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

**Source:** Laws 1951, c. 274, § 10, p. 916; Laws 1953, c. 308, § 2, p. 1028; Laws 1979, LB 391, § 3; Laws 1982, LB 131, § 2; Laws 1987, LB 298, § 6; R.S.1943, (1994), § 79-1041; Laws 1996, LB 900, § 623; Laws 1997, LB 624, § 23; Laws 1998, LB 497, § 13.

**79-988.01 Repealed. Laws 2016, LB447, § 54.**

**79-989 Employees retirement system; board of education; records available; administrator; powers and duties; information not considered public record.**

(1) The board of education shall have available records showing the name, address, title, social security number, beneficiary records, annual compensation, sex, date of birth, length of creditable and noncreditable service in hours, standard hours, and contract days, bargaining unit, and annual contributions of each employee entitled to membership in the retirement system and such other information as may be reasonably requested by the board of trustees until September 1, 2024, and by the retirement board beginning September 1, 2024, regarding such member as may be necessary for actuarial study and valuation and the administration of the retirement system. This information shall be available in a timely manner to the board or retirement board, as applicable, upon request.

(2) Beginning September 1, 2024:

(a)(i) The administrator of the retirement system shall keep a complete record of all members with respect to name, current address, age, contributions, and any other facts and information as may be necessary in the administration of

the Class V School Employees Retirement Act. The information in the records shall be provided by an employer in an accurate and verifiable form, as specified by the administrator; and

(ii) The administrator shall, from time to time, carry out testing procedures pursuant to section 84-1512 to verify the accuracy of such facts and information. For the purpose of obtaining such facts and information, the administrator shall have access to the records of an employer and the holder of the records shall comply with a request by the administrator for access by providing such facts and information to the administrator in a timely manner. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate;

(b) An employer and every employee shall send to the director of the Nebraska Public Employees Retirement Systems, as specified in this section, upon request and in the manner required by the director, such information as he or she may require (i) for the identification of employees and (ii) for the determination of the membership of the retirement system and the obligations of an employer and employee to the retirement system; and

(c) The administrator shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so an employer has the knowledge and information necessary to prepare and file reports as the retirement board requires.

(3) The information maintained by the board of education and obtained from the board by the board of trustees or information obtained and maintained by the retirement board for the administration of the retirement system pursuant to this section shall not be considered public records subject to sections 84-712 to 84-712.09, except that the following information shall be considered public records: The member's name, the date the member's participation in the retirement system commenced, and the date the member's participation in the retirement system ended, if applicable.

**Source:** Laws 1951, c. 274, § 11, p. 917; R.S.1943, (1994), § 79-1042; Laws 1996, LB 900, § 624; Laws 2016, LB447, § 27; Laws 2019, LB33, § 5; Laws 2021, LB147, § 22.

**79-990 Employees retirement system; time served in armed forces or on leave of absence; resignation for maternity purposes; effect.**

(1) Any member who is eligible for reemployment on or after December 12, 1994, pursuant to 38 U.S.C. 4301 et seq., as adopted under section 55-161, or who is eligible for reemployment under section 55-160 may pay to the retirement system after the date of his or her return from active military service, and within the period required by law, not to exceed five years, an amount equal to the sum of all deductions which would have been made from the salary which he or she would have received during the period of military service for which creditable service is desired. If such payment is made, the member shall be entitled to credit for membership service in determining his or her annuity for the period for which contributions have been made and the board of education shall be responsible for any funding necessary to provide for the benefit which is attributable to this increase in the member's creditable service. The member's payments shall be paid as the board may direct until September 1, 2024, and as the retirement board may direct beginning September 1, 2024, through direct payments to the retirement system or on an installment basis pursuant to

a binding irrevocable payroll deduction authorization between the member and the school district. Creditable service may be purchased only in one-tenth-year increments, starting with the most recent years' salary.

(2) Under such rules and regulations as the board may direct until September 1, 2024, and as the retirement board may direct beginning September 1, 2024, any member who was away from his or her position while on a leave of absence from such position authorized by the board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district may receive credit for any or all time he or she was on leave of absence. Such time shall be included in creditable service when determining eligibility for death, disability, termination, and retirement benefits. The member who receives the credit shall earn benefits during the leave based on salary at the level received immediately prior to the leave of absence. Such credit shall be received if such member pays into the retirement system (a) an amount equal to the sum of the deductions from his or her salary for the portion of the leave for which creditable service is desired, (b) any contribution which the school district would have been required to make for the portion of the leave for which creditable service is desired had he or she continued to receive salary at the level received immediately prior to the leave of absence, and (c) interest on these combined payments from the date such deductions would have been made to the date of repayment determined by using the rate of interest for interest on such purchases of service credit. Such amounts shall be paid as the board may direct until September 1, 2024, and as the retirement board may direct beginning September 1, 2024, through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district over a period not to exceed five years from the date of the termination of his or her leave of absence. Interest on any delayed payment shall be at the rate of interest for determining interest on delayed payments by members to the retirement system. Creditable service may be purchased only in one-tenth-year increments, starting with the most recent years' salary, and if payments are made on an installment basis, creditable service will be credited only as payment has been made to the retirement system to purchase each additional one-tenth-year increment. Leave of absence shall be construed to include, but not be limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or study. A leave of absence granted pursuant to this section shall not exceed four years in length, and in order to receive credit for the leave of absence, the member must have returned to employment with the school district within one year after termination of the leave of absence.

(3) Until one year after May 2, 2001, any member currently employed by the school district who resigned from full-time employment with the school district for maternity purposes prior to September 1, 1979, and was reemployed as a full-time employee by the school district before the end of the school year following the school year of such member's resignation may have such absence treated as though the absence was a leave of absence described in subsection (2) of this section. The period of such absence for maternity purposes shall be included in creditable service when determining the member's eligibility for death, disability, termination, and retirement benefits if the member submits

satisfactory proof to the board of education that the prior resignation was for maternity purposes and the member complies with the payment provisions of subsection (2) of this section before the one-year anniversary of May 2, 2001.

**Source:** Laws 1951, c. 274, § 12, p. 917; Laws 1981, LB 369, § 1; Laws 1982, LB 131, § 3; Laws 1988, LB 551, § 3; Laws 1991, LB 350, § 4; Laws 1992, LB 1001, § 21; Laws 1993, LB 107, § 4; Laws 1995, LB 505, § 4; Laws 1996, LB 847, § 26; R.S.Supp., 1995, § 79-1043; Laws 1996, LB 900, § 625; Laws 1996, LB 1076, § 12; Laws 2001, LB 711, § 10; Laws 2002, LB 722, § 7; Laws 2005, LB 364, § 12; Laws 2010, LB950, § 18; Laws 2013, LB263, § 23; Laws 2016, LB447, § 28; Laws 2021, LB147, § 24.

**79-991 Employees retirement system; member; prior service credit; how obtained.**

(1) An employee who becomes a member without prior service credit may purchase prior service credit, not to exceed the lesser of ten years or the member's years of membership service, for the period of service the member was employed by a school district or by an educational service unit and which is not used in the calculation of any retirement or disability benefit having been paid, being paid, or payable in the future to such member under any defined benefit retirement system or program maintained by such other school district or educational service unit. The purchase of prior service credit shall be made in accordance with and subject to the following requirements:

(a) A member who desires to purchase prior service credit shall make written application to the administrator of the retirement system that includes all information and documentation determined by the administrator as necessary to verify the member's prior service and qualification to purchase the prior service credit. Such application shall include the member's written authorization for the administrator to request and receive from any of the member's former employers verification of the member's prior service, salary, and other information for determining the member's eligibility to purchase prior service credit. Before prior service credit may be purchased, the administrator shall have received verification of the member's salary in each year with the other school district or educational service unit and confirmation that the prior service to be purchased by the member is not also credited in the calculation of a retirement or disability benefit for such member under another defined benefit retirement system or program. The member's application to purchase prior service credit may be made at any time before the fifth anniversary of the member's membership in the retirement system or, if earlier, the member's termination of employment with the school district;

(b) The member shall pay to the retirement system the total amount he or she would have contributed to the retirement system had he or she been a member of the retirement system during the period for which prior service is being purchased, together with interest thereon as determined using the rate of interest for the purchase of prior service credit. Such payment shall be based on the most recent years' salary the member earned in another school district or educational service unit if the salary is verified by the other school district or educational service unit or, if not, the payment shall be based on the member's annual salary at the time he or she became a member;

(c) Payments by the member for the purchase of the prior service credit shall be paid as the board may direct until September 1, 2024, and as the retirement board may direct beginning September 1, 2024, through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district over a period not to exceed five years from the date of membership. Interest on delayed payments shall be at the rate of interest for determining interest on delayed payments by members to the retirement system. In the event the member terminates employment with the school district for any reason before full payment for the prior service has been made, the remaining installments shall be immediately due and payable to the retirement system. Prior service credit may be purchased only in one-tenth-year increments, and if payments are made on an installment basis, the prior service will be credited only as payment has been made to the retirement system. If the prior service to be purchased by the member exceeds the member's membership service at the time of application or any subsequent date, such excess prior service shall be credited to the member only as the member completes and is credited additional membership service, in one-tenth-year increments, notwithstanding the member's payment for such prior service credit. If the member retires or terminates employment before completing sufficient membership service to permit all of the excess prior service that has been purchased by the member to be credited to such member, the retirement system shall refund to the member, or to the member's beneficiary if the member's termination is due to his or her death, the payments that have been made to the retirement system for such uncredited prior service, together with regular interest on such refund; and

(d) The school district shall contribute to the retirement system an amount equal to the amount paid by each member for the purchase of prior service credit at the time such payments are made by such member.

(2) Any employee who became a member before July 1, 2014, and who has five or more years of creditable service and any employee who became a member for the first time on or after July 1, 2014, and who has ten or more years of creditable service, excluding in either case years of prior service acquired pursuant to section 79-990, 79-994, 79-995, or 79-997, or subsection (1) of this section, may elect to purchase up to a total of five years of additional creditable service under the retirement system, and upon such purchase the member shall be given the same status as though he or she had been a member of the retirement system for such additional number of years, except as otherwise specifically provided in the Class V School Employees Retirement Act. Creditable service may be purchased only in one-tenth-year increments. The amount to be paid to the retirement system for such creditable service shall be equal to the actuarial cost to the retirement system of the increased benefits attributable to such additional creditable service as determined by the retirement system's actuary at the time of the purchase pursuant to actuarial assumptions and methods adopted by the board until September 1, 2024, and as adopted by the retirement board beginning September 1, 2024. The election to purchase additional creditable service may be made at any time before the member's termination of employment, and all payments for the purchase of such creditable service must be completed within five years after the election or before the member's termination or retirement, whichever event occurs first. Payment shall be made as the board may direct until September 1, 2024, and as the retirement board may direct beginning September 1, 2024, through a single

payment to the retirement system, on an installment basis, including payments pursuant to a binding irrevocable payroll deduction authorization between the member and the school district, or by such other method approved by the board or the retirement board, as applicable, and permitted by law. If payments are made on an installment basis, creditable service will be credited only as payment has been made to the retirement system to purchase each additional one-tenth-year increment. Interest shall be charged on installment payments at the rate of interest for determining interest on delayed payments by members to the retirement system.

**Source:** Laws 1951, c. 274, § 14, p. 918; Laws 1953, c. 308, § 3, p. 1029; Laws 1982, LB 131, § 5; Laws 1987, LB 298, § 8; Laws 1988, LB 551, § 4; Laws 1992, LB 1001, § 23; Laws 1993, LB 107, § 5; Laws 1995, LB 505, § 6; R.S.Supp.,1995, § 79-1045; Laws 1996, LB 900, § 626; Laws 1997, LB 624, § 24; Laws 1998, LB 497, § 15; Laws 2005, LB 364, § 13; Laws 2013, LB263, § 24; Laws 2014, LB1042, § 10; Laws 2016, LB447, § 29; Laws 2021, LB147, § 25.

**79-992 Employees retirement system; termination of employment; refunds; reemployment; separation from service; return to work.**

(1) A member who has five years or more of creditable service, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, and who terminates his or her employment may elect to leave his or her contributions in the retirement system, in which event he or she shall receive a retirement allowance at normal retirement age based on the annuity earned to the date of such termination of employment. Such member may elect to receive a retirement allowance at early retirement age if such member retires at an early retirement date. Such annuity shall be adjusted in accordance with section 79-9,100. Upon termination of employment, except on account of retirement, a member shall be entitled to receive refunds as follows: (a) An amount equal to the accumulated contributions to the retirement system by the member; and (b) any contributions made to a previously existing system which were refundable under the terms of that system. Any member receiving a refund of contributions shall thereby forfeit and relinquish all accrued rights in the retirement system including all accumulated creditable service, except that if any member who has withdrawn his or her contributions as provided in this section reenters the service of the district and again becomes a member of the retirement system, he or she may restore any or all money previously received by him or her as a refund, including the interest on the amount of the restored refund for the period of his or her absence from the district's service as determined using the interest rate for interest on such restored refunds, and he or she shall then again receive credit for that portion of service which the restored money represents. Such restoration may be made as the board may direct until September 1, 2024, and as the retirement board may direct beginning September 1, 2024, through direct payments to the system or on an installment basis pursuant to a binding irrevocable payroll deduction authorized between the member and the school district over a period of not to exceed five years from the date of reemployment. Interest on delayed payments shall be at the rate of interest for determining interest on delayed payments by members to the retirement system. Creditable service may be purchased only in one-tenth-year increments, starting with the most recent years' salary.

(2) Except as provided in section 79-992.01:

(a)(i) A retired member, or a member described in subdivision (2)(c) or (d) of this subsection, who returns to employment as or again becomes an employee of the school district shall again participate in the retirement system as a new member and shall make contributions to the retirement system commencing upon reemployment as an employee.

(ii) The retirement annuity of a retired member who returns to employment with the school district shall continue to be paid by the retirement system. A retired member who returns to employment as an employee of the school district shall receive creditable service only for service performed after his or her return to employment and in no event shall creditable service which accrues or the compensation paid to the member after such return to employment after retirement increase the amount of the member's original retirement annuity;

(b) Upon termination of employment of the reemployed member, the member shall receive in addition to the retirement annuity which commenced at the time of the previous retirement (i) if the member has accrued five years or more of creditable service after his or her return to employment, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, a retirement annuity as provided in section 79-999 or 79-9,100, as applicable, calculated solely on the basis of creditable service and final average compensation accrued and earned after the member's return to employment after his or her original retirement, and as adjusted to reflect any payment in other than the normal form or (ii) if the member has not accrued five years or more of creditable service after his or her return to employment, a refund equal to the member's accumulated contributions which were credited to the member after the member's return to employment. In no event shall the member's creditable service which accrued prior to a previous retirement be considered as part of the member's creditable service after his or her return to employment for any purpose of the Class V School Employees Retirement Act;

(c) A member who experiences a separation from service but has not submitted a retirement application or request for distribution pursuant to this section or as described in subdivision (32) of section 79-978, or received a retirement benefit, disability retirement benefit, or refund may return to work as a temporary employee, substitute employee, or volunteer. Such a temporary employee, substitute employee, or volunteer:

(i) Shall be deemed to have incurred a termination of employment for purposes of section 79-991;

(ii) Shall not be deemed to have incurred a termination of employment for purposes of this section or section 79-992.01, 79-9,105, or 79-9,106, or for any other purposes under the Class V School Employees Retirement Act, and shall not be eligible to receive a retirement benefit, disability retirement benefit, or distribution pursuant to this section, until the member incurs a termination of employment as described in subdivision (42) of section 79-978; and

(iii) Except as provided in subdivision (2)(a)(i) of this section, shall not be eligible to contribute to the retirement system pursuant to section 79-9,113 or earn membership service credit in the retirement system as described in subdivision (23) of section 79-978; and

(d)(i) A member who experiences a separation from service and has submitted a retirement application or request for distribution pursuant to this section

or as described in subdivision (32) of section 79-978, or received a retirement benefit, disability retirement benefit, or distribution, shall not be deemed to have incurred a termination of employment if the member subsequently returns to work for the district within one hundred eighty days after separating from service, unless such work is limited to:

(A) Bona fide unpaid voluntary service;

(B) Work performed as a substitute employee on an intermittent basis; or

(C) Work as a temporary employee following a bona fide separation of service of not less than thirty calendar days and which is provided to accomplish a specific purpose or task for a limited period not to exceed one year.

(ii) For purposes of subdivision (2)(d) of this section:

(A) Intermittent basis means work provided on a day-to-day basis that is not greater than eight days of work during a calendar month; and

(B) Day of work means any length of work as a substitute employee provided during a single calendar day.

(iii) The one-hundred-eighty-day period described in subdivision (2)(d)(i) of this section begins on the later of:

(A) The date the member experienced a bona fide separation from service of all employment as an employee with the school district; or

(B) The date the board receives the member's retirement application or request for distribution as described in subdivision (32) of section 79-978.

(iv) A member may seek a determination from the administrator that it has been at least one hundred eighty days since the member satisfied the requirements described in this subdivision (2)(d). The administrator shall make such determination if the member produces clear and convincing evidence that is received by the administrator within forty-five days after the later of:

(A) The date the member experienced a bona fide separation of service of all employment as an employee with the district; or

(B) The date the board receives the member's retirement application or request for distribution as described in subdivision (32) of section 79-978.

(v) A member may appeal the administrator's determination to the board within thirty days after the determination by the administrator. The board's determination on appeal shall be final and shall not be appealable to any court.

(3) In the event a member is entitled to receive a refund of contributions pursuant to subsection (1) or subdivision (2)(b)(ii) of this section in an amount greater than one thousand dollars, if the member does not elect to have the refund paid directly to himself or herself or transferred to an eligible retirement plan designated by the member as a direct rollover pursuant to section 79-998, then the refund of contributions shall be paid in a direct rollover to an individual retirement plan as designated by the board until September 1, 2024, and as designated by the retirement board beginning September 1, 2024.

**Source:** Laws 1951, c. 274, § 18, p. 920; Laws 1955, c. 321, § 2, p. 992; Laws 1963, c. 490, § 3, p. 1565; Laws 1967, c. 544, § 3, p. 1789; Laws 1972, LB 1116, § 2; Laws 1982, LB 131, § 8; Laws 1985, LB 215, § 7; Laws 1987, LB 298, § 10; Laws 1988, LB 551, § 6; Laws 1992, LB 1001, § 25; Laws 1993, LB 107, § 9; R.S.1943, (1994), § 79-1049; Laws 1996, LB 900, § 627; Laws 1997, LB 624, § 25; Laws 1998, LB 497, § 16; Laws 2001, LB 711, § 11;



Laws 2005, LB 364, § 14; Laws 2006, LB 1019, § 11; Laws 2013, LB263, § 25; Laws 2016, LB447, § 30; Laws 2017, LB415, § 37; Laws 2021, LB147, § 26; Laws 2024, LB198, § 14.  
Effective date March 19, 2024.

**79-992.01 Termination of employment; employer; duties.**

(1) An employer participating in a retirement system established pursuant to the Class V School Employees Retirement Act shall:

(a) Until September 1, 2024, notify the administrator and the board of trustees in writing of the date upon which a termination of employment has occurred and provide the administrator and the board of trustees with such information as the board of trustees deems necessary; and

(b) Beginning September 1, 2024, notify the retirement board in writing of the date upon which a termination of employment has occurred and provide the administrator and the board with such information as the administrator and the board deem necessary.

(2) Until September 1, 2024, and except as provided in section 79-981, the board of trustees, and, beginning September 1, 2024, the retirement board, may adopt and promulgate rules and regulations and prescribe forms as the board of trustees or the retirement board, as applicable, determines appropriate in order to carry out this section and to ensure full disclosure and reporting by an employer and member in order to minimize fraud and abuse and the filing of false or fraudulent claim or benefit applications.

**Source:** Laws 2017, LB415, § 38; Laws 2021, LB147, § 27; Laws 2022, LB700, § 9.

**79-992.02 False or fraudulent claim or benefit application; prohibited acts; penalty.**

(1) Any person who, knowing it to be false or fraudulent, presents or causes to be presented a false or fraudulent claim or benefit application, any false or fraudulent proof in support of such a claim or benefit, or false or fraudulent information which would affect a future claim or benefit application to be paid under a retirement system for the purpose of defrauding or attempting to defraud the retirement system shall be guilty of a Class II misdemeanor. The (a) administrator and the board until September 1, 2024, and (b) retirement board beginning September 1, 2024, shall deny any benefits that it determines are based on false or fraudulent information and shall have a cause of action against the member to recover any benefits already paid on the basis of such information.

(2) Any employee, member of a board of education, or agent of any employer who willfully fails or refuses to furnish to the (a) administrator and the board of trustees until September 1, 2024, and (b) retirement board beginning September 1, 2024, upon its request and in the manner prescribed by it such information, data, or records, as may be necessary for carrying into effect the Class V School Employees Retirement Act, shall be guilty of a Class V misdemeanor.

**Source:** Laws 2017, LB415, § 39; Laws 2021, LB147, § 28.

**79-993 Reemployment; repay contributions; limitation; effect.**

For one year from May 30, 1987, any person who withdrew his or her accumulated contributions pursuant to section 79-992 prior to May 30, 1987, has again become an employee, and has not previously repaid all of his or her accumulated contributions pursuant to such section may elect to repay any unpaid portion of these accumulated contributions to the retirement system for any number of years of creditable service which he or she accumulated prior to withdrawing his or her accumulated contributions. The amount to be repaid shall not exceed the amount of the withdrawal for the years of creditable service for which the repayment is being made plus the regular interest which would have accrued on that amount under the retirement system. Any person who repays such amount shall be restored to the same status for the years of creditable service for which repayment is made as he or she had prior to the withdrawal of the accumulated contributions.

**Source:** Laws 1987, LB 298, § 1; R.S.1943, (1994), § 79-1049.01; Laws 1996, LB 900, § 628.

**79-994 Employee of another school district; contribution; limitation; effect.**

For one year from May 30, 1987, any person who was an employee of another school district prior to May 30, 1987, has joined or rejoined the retirement system, and has not previously paid into the retirement system a total of ten years of service in another school district may elect to pay the retirement system any unpaid portion of such service up to a total of ten years. Such electing employee shall furnish satisfactory proof that he or she has been employed for such period of time by another school district and shall pay to the retirement system the total amount which he or she would have contributed to the retirement system had he or she been a member of the retirement system plus the regular interest which would have accrued on such amount during such period under the retirement system. Such contribution shall be based on the most recent years' salary the employee earned in another school district if the salary is verified by the other school district or, if not, on his or her annual salary at the time he or she became a member and shall be payable in total for the period of time, not exceeding ten years, for which such member requests such prior service credit. Any person who pays such amount shall be given credit for any number of years of service which he or she has elected to pay for, not to exceed ten years of service rendered as an employee in another school district, and shall be given the same status as though he or she had been a member of the retirement system for such number of years, except as otherwise specifically provided in the Class V School Employees Retirement Act.

**Source:** Laws 1987, LB 298, § 2; R.S.1943, (1994), § 79-1049.02; Laws 1996, LB 900, § 629; Laws 1998, LB 497, § 17.

**79-995 Reemployment; military service; leave of absence; contribution; limitation; effect.**

For one year from May 30, 1987, any person who served in the armed forces as specified in subsection (1) of section 79-990 or who was on a leave of absence as specified in subsection (2) of such section, has again become an employee, and has not previously paid into the system for all of the years of military service or leave of absence permitted by such section may elect to pay into the retirement system for the total number of years of service authorized by such section but not previously paid in. The amount to be paid in by the

member shall be calculated as provided in such section. Any person who pays such amount shall be given credit for any number of years of service for which he or she has elected to pay, not to exceed the total number of years authorized by such section, and shall be given the same status as though he or she had been a member of the retirement system for such number of years, except as otherwise specifically provided in the Class V School Employees Retirement Act.

**Source:** Laws 1987, LB 298, § 3; R.S.1943, (1994), § 79-1049.03; Laws 1996, LB 900, § 630; Laws 1998, LB 497, § 18.

**79-996 Contributions; how paid.**

The payments provided for by sections 79-993, 79-994, and 79-997 may be made in equal installments over a period of not to exceed two years from the date of the election to make such payments. The payments provided for by section 79-995 may be made in equal installments over a period of not to exceed three years from the date of election to make such payments. Any person who elects to make payments on an installment basis shall be credited with prior service only in six-month increments and only after payment has been made to the retirement system to purchase each additional six-month increment.

**Source:** Laws 1987, LB 298, § 4; Laws 1988, LB 551, § 7; R.S.1943, (1994), § 79-1049.04; Laws 1996, LB 900, § 631; Laws 2013, LB263, § 26; Laws 2016, LB447, § 31.

**79-997 Employee of educational service unit; contribution; limitation; effect.**

On or before May 27, 1988, any person who was an employee of an educational service unit in the State of Nebraska prior to April 7, 1988, has joined or rejoined the retirement system, and has not previously paid into the retirement system a total of ten years of service in another school district or educational service unit may elect to pay the retirement system any unpaid portion of such service up to a total of ten years. Such electing employee shall furnish satisfactory proof that he or she has been employed for such period of time by an educational service unit and shall pay to the retirement system the total amount which he or she would have contributed to the retirement system had he or she been a member of the retirement system plus the regular interest which would have accrued on such amount during such period under the retirement system. Such contribution shall be based on the most recent years' salary the employee earned in the educational service unit if the salary is verified by the educational service unit or, if not, on his or her annual salary at the time he or she became a member and shall be payable in total for the period of time, not exceeding ten years, for which such member requests such prior service credit. Any person who pays such amount shall be given credit for any number of years of service for which he or she has elected to pay, not to exceed ten years of service rendered as an employee in another school district or educational service unit, and shall be given the same status as though he or she had been a member of the retirement system for such number of years except as otherwise specifically provided in the Class V School Employees Retirement Act. This section shall not apply to employees retiring prior to April 7, 1988.

**Source:** Laws 1988, LB 551, § 1; R.S.1943, (1994), § 79-1049.05; Laws 1996, LB 900, § 632; Laws 1998, LB 497, § 19.

**79-998 Additional service credits; accept payments and rollovers; limitations; how treated; tax consequences; direct transfer to retirement plan.**

(1) The retirement system may accept as payment for additional service credit that is purchased pursuant to sections 79-990 to 79-992 an eligible rollover distribution from or on behalf of the member who is making payments for such service credit if the eligible rollover distribution does not exceed the amount of payment required for the service credit being purchased by the member. The eligible rollover distribution may be contributed to the retirement system by the member or directly transferred from the plan that is making the eligible rollover distribution on behalf of the member. Contribution by a member pursuant to this section may only be made in the form of a cash contribution. For purposes of this section, an eligible rollover distribution means all or any portion of an amount that qualifies as an eligible rollover distribution under the Internal Revenue Code from:

(a) A plan of another employer which is qualified under section 401(a) or 403(a) of the Internal Revenue Code;

(b) An annuity contract or custodial account described in section 403(b) of the Internal Revenue Code;

(c) An eligible deferred compensation plan under section 457(b) of the Internal Revenue Code which is maintained by a governmental employer described in section 457(e)(1)(A) of the Internal Revenue Code; or

(d) An individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code that is eligible to be rolled over to an employer plan under the Internal Revenue Code.

(2) The retirement system may accept as payment for service credit that is purchased pursuant to sections 79-990 to 79-992 a direct trustee-to-trustee transfer from an eligible deferred compensation plan as described in section 457(e)(17) of the Internal Revenue Code on behalf of a member who is making payments for such service credit if the amount transferred from the eligible deferred compensation plan does not exceed the amount of payment required for the service credit being purchased and the purchase of such service credit qualifies as the purchase of permissive service credit by the member as defined in section 415(n)(3) of the Internal Revenue Code.

(3) Until September 1, 2024, the board, and, beginning September 1, 2024, the retirement board, may establish rules, regulations, and limitations on the eligible rollover distributions and direct trustee-to-trustee transfers that may be accepted by the retirement system pursuant to this section, including restrictions on the type of assets that may be transferred to the retirement system.

(4) Cash and other properties contributed or transferred to the retirement system pursuant to this section shall be deposited and held as a commingled asset of the retirement system and shall not be separately accounted for or invested for the member's benefit. Contributions or direct transfers made by or on behalf of any member pursuant to this section shall be treated as qualifying payments under sections 79-990 to 79-992 and as employee contributions for all other purposes of the Class V School Employees Retirement Act except in determining federal and state tax treatment of distributions from the system.

(5) The retirement system, the board of education, the board of trustees, the retirement board, and their respective members, officers, and employees shall have no responsibility or liability with respect to the federal and state income

tax consequences of any contribution or transfer to the retirement system pursuant to this section. Until September 1, 2024, the board, and, beginning September 1, 2024, the retirement board, may require as a condition to the retirement system's acceptance of any rollover contribution or transfer satisfactory evidence that the proposed contribution or transfer is a qualifying rollover contribution or trustee-to-trustee transfer under the Internal Revenue Code and reasonable releases or indemnifications from the member against any and all liabilities which may in any way be connected with such contribution or transfer.

(6) Effective January 1, 1993, any member who is to receive an eligible rollover distribution, as defined in the Internal Revenue Code, from the retirement system may, in accordance with such rules, regulations, and limitations as may be established by the board or the retirement board, as applicable, elect to have such distribution made in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code. Any such election shall be made in the form and within the time periods established by the board or the retirement board, as applicable.

(7) A member's surviving spouse or former spouse who is an alternate payee under a qualified domestic relations order and, on or after September 1, 2010, any designated beneficiary of a member who is not a surviving spouse or former spouse who is entitled to receive an eligible rollover distribution from the retirement system may, in accordance with such rules, regulations, and limitations as may be established by the board or the retirement board, as applicable, elect to have such distribution made in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(8) An eligible rollover distribution on behalf of a designated beneficiary of a member who is not a surviving spouse or former spouse of the member may be transferred to an individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code that is established for the purpose of receiving the distribution on behalf of the designated beneficiary and that will be treated as an inherited individual retirement account or individual retirement annuity described in section 408(d)(3)(C) of the Internal Revenue Code.

(9) All distributions from the retirement system shall be subject to all withholdings required by federal or state tax laws.

**Source:** Laws 1992, LB 1001, § 27; Laws 1993, LB 107, § 10; Laws 1995, LB 574, § 76; R.S.Supp., 1995, § 79-1049.06; Laws 1996, LB 900, § 633; Laws 1998, LB 497, § 20; Laws 2001, LB 711, § 12; Laws 2002, LB 407, § 47; Laws 2012, LB916, § 25; Laws 2016, LB447, § 32; Laws 2021, LB147, § 29.

#### **79-999 Employees retirement system; annuity; how credited.**

After the date of establishment of the retirement system, each member shall be credited annually with a retirement annuity of an amount equal to one and one-half percent of the salary or wage earned by him or her during the then current fiscal year not in excess of five thousand dollars, except that (1) for each member who retires on or after August 31, 1969, such credit shall be an amount equal to one and sixty-five hundredths percent of such salary or wage not in excess of five thousand dollars and (2) for each member who chose the

new system in 1951 and who retires on or after August 31, 1976, for service from September 1, 1951, to August 31, 1955, such credit shall be two and four-tenths percent of such salary or wage not in excess of five thousand dollars, for service from September 1, 1955, to August 31, 1963, one and forty-four hundredths percent of such salary or wage not in excess of six thousand dollars, for service from September 1, 1963, to August 31, 1969, one and forty-four hundredths percent of such salary or wage up to the social security wage base, plus two and four-tenths percent of salary or wage in excess thereof, and for service after September 1, 1969, one and forty-four hundredths percent of the first seventy-eight hundred dollars of such salary or wage and two and four-tenths percent of the excess of such salary or wage over seventy-eight hundred dollars. With respect to service rendered prior to the date of establishment of the retirement system, each employee in service or on leave of absence on such date shall be entitled to an annuity on account of prior service. Such annuity shall be such percentage of the maximum annuity to which such member might have been entitled under the terms of a retirement plan previously in effect as the number of years of service under such plan bears to the total number of years for which credit for service might have been granted under such plan, except that no credit shall be given in excess of the maximum annuity provided under such preexisting plan. The number of years of prior service for which credit shall be given under this section shall be the number of years of service with which the employee is credited under such preexisting plan on May 21, 1951. The sum of these two annuities shall constitute the retirement allowance to which the member shall be entitled to be paid beginning on his or her retirement date. Such annuity shall be paid in twelve equal monthly installments unless the amount thereof is less than ten dollars per month in which event payments shall be made quarterly or semiannually.

**Source:** Laws 1951, c. 274, § 13, p. 917; Laws 1969, c. 724, § 1, p. 2754; Laws 1972, LB 1116, § 1; Laws 1976, LB 994, § 2; Laws 1987, LB 298, § 7; R.S.1943, (1994), § 79-1044; Laws 1996, LB 900, § 634.

**79-9,100 Employees retirement system; formula retirement annuity; computation.**

(1) In lieu of the retirement annuity provided by section 79-999 or 79-9,113, any member who becomes eligible to receive a retirement annuity after February 20, 1982, under the Class V School Employees Retirement Act shall receive a formula retirement annuity based on final average compensation, except that if the monthly formula retirement annuity based on final average compensation is less than the monthly retirement annuity specified in section 79-999 or 79-9,113, accrued to the date of retirement or August 31, 1983, whichever first occurs, the member shall receive the monthly retirement annuity specified in section 79-999 or 79-9,113 accrued to the date of retirement or August 31, 1983, whichever first occurs.

(2) The monthly formula retirement annuity based on final average compensation shall be determined by multiplying the number of years of creditable service for which such member would otherwise receive the retirement annuity provided by section 79-999 or 79-9,113 by one and one-half percent of his or her final average compensation. For retirements after June 15, 1989, and before April 18, 1992, the applicable percentage shall be one and sixty-five hundredths percent of his or her final average compensation. For retirements

on or after April 18, 1992, and before June 7, 1995, the applicable percentage shall be one and seventy-hundredths percent of his or her final average compensation. For retirements on or after June 7, 1995, and before March 4, 1998, the applicable percentage shall be one and eighty-hundredths percent of his or her final average compensation. For retirements on or after March 4, 1998, and before March 22, 2000, the applicable percentage shall be one and eighty-five hundredths percent of his or her final average compensation. For retirements on or after March 22, 2000, the applicable percentage shall be two percent of his or her final average compensation.

(3) Final average compensation shall be determined:

(a) Except as provided in subdivision (3)(b) of this section, by dividing the member's total compensation for the three fiscal years in which such compensation was the highest by thirty-six; and

(b) For an employee who became a member on or after July 1, 2013, by dividing the member's total compensation for the five fiscal years in which such compensation was the highest by sixty.

(4)(a) In the determination of compensation for members whose retirement date is on or after July 1, 2016, that part of a member's compensation for the plan year which exceeds the member's compensation for the preceding plan year by more than eight percent during the capping period shall be excluded. If the compensation for the preceding plan year was reduced as a result of unpaid absence from work, the compensation used in the capping calculation will be the greater of (i) the annualized compensation for the preceding year as if it had been fully received or (ii) the most recent preceding plan year in which the member had no unpaid absence from work. Such member's compensation for the first plan year of the capping period shall be compared to the member's compensation received for the plan year immediately preceding the capping period. If the first plan year of the capping period is the member's first year of membership service, these capping provisions shall not be applied to that first plan year.

(b) For purposes of this subsection:

(i) Capping period means the five plan years preceding the later of (A) such member's retirement date or (B) such member's final compensation date; and

(ii) Final compensation date means the later of (A) the date on which a retiring member's final compensation is actually paid or (B) if a retiring member's final compensation is paid in advance as a lump sum, the date on which such final compensation would have been paid to the member in the absence of such advance payment.

(5) This subsection does not apply to employees who become members on or after July 1, 2016. If the annuity begins prior to the sixty-second birthday of the member and the member has completed thirty-five or more years of creditable service, the annuity shall not be reduced. For retirements on or after June 7, 1995, any retirement annuity which begins prior to the sixty-second birthday of the member shall be reduced by twenty-five hundredths percent for each month or partial month between the date the annuity begins and the member's sixty-second birthday. If the annuity begins at a time when:

(a) The sum of the member's attained age and creditable service is eighty-five or more, the annuity shall not be reduced;

(b) The sum of the member's attained age and creditable service totals eighty-four, the annuity shall not be reduced by an amount greater than three percent of the unreduced annuity;

(c) The sum of the member's attained age and creditable service totals eighty-three, the annuity shall not be reduced by an amount greater than six percent of the unreduced annuity; and

(d) The sum of the member's attained age and creditable service totals eighty-two, the annuity shall not be reduced by an amount greater than nine percent of the unreduced annuity.

(6) For purposes of this section, a member's creditable service and attained age shall be measured in one-half-year increments.

(7)(a) Except as provided in section 79-9,104, the normal form of the formula retirement annuity based on final average compensation shall be an annuity payable monthly during the remainder of the member's life with the provision that in the event of the member's death before sixty monthly payments have been made the monthly payments will continue until sixty monthly payments have been made in total pursuant to section 79-9,119.

(b) A member may elect to receive, in lieu of the normal form of annuity, an actuarially equivalent annuity in any optional form provided by section 79-9,101.

(8) Any member receiving a formula retirement annuity based on final average compensation who is a member prior to July 1, 2016, shall also receive the service annuity to be paid by the State of Nebraska as provided in sections 79-933 to 79-935 and 79-951.

**Source:** Laws 1982, LB 131, § 4; Laws 1985, LB 215, § 3; Laws 1989, LB 237, § 2; Laws 1992, LB 1001, § 22; Laws 1995, LB 505, § 5; R.S.Supp.,1995, § 79-1044.01; Laws 1996, LB 900, § 635; Laws 1998, LB 497, § 21; Laws 1998, LB 1191, § 62; Laws 2000, LB 155, § 2; Laws 2013, LB553, § 11; Laws 2015, LB446, § 5; Laws 2016, LB447, § 33; Laws 2019, LB34, § 19.

**Cross References**

For supplemental retirement benefits, see sections 79-941 to 79-947.

**79-9,100.01 Employees retirement system; annuity reductions; when; computation.**

(1)(a) For employees who become members on or after July 1, 2016, and prior to July 1, 2018, if the annuity begins at a time when the sum of the member's attained age and creditable service totals eighty-five and the member is at least fifty-five years of age, the annuity shall not be reduced.

(b) For employees who become members on or after July 1, 2018, if the annuity begins at a time when the sum of the member's attained age and creditable service totals eighty-five and the member is at least sixty years of age, the annuity shall not be reduced.

(2)(a) For an employee who becomes a member prior to July 1, 2018, if the annuity begins on or after the sixtieth birthday of the member and the member has completed at least a total of five years of creditable service, the annuity shall be reduced by twenty-five hundredths percent for each month or partial month between the date the annuity begins and the member's sixty-fifth birthday.



(b) For a member hired or rehired on or after July 1, 2018, if the annuity begins on or after the sixtieth birthday and the member has completed at least a total of five years of creditable service including eligibility and vesting credit but has not qualified for an unreduced annuity as specified in this section, the annuity shall be reduced by twenty-five hundredths percent for each month or partial month between the date the annuity begins and the member's sixty-fifth birthday.

(3) A member's attained age shall be measured in one-half-year increments.

(4) Except as provided in section 42-1107, the normal form of the formula retirement annuity based on final average compensation shall be an annuity payable monthly during the remainder of the member's life with the provision that, in the event of his or her death before sixty monthly payments have been made, the monthly payments will be continued to his or her estate or to the beneficiary he or she has designated until a total of sixty monthly payments have been made. A member may elect to receive, in lieu of the normal form of annuity, an actuarially equivalent annuity in any optional form provided by section 79-9,101.

(5) All formula annuities shall be paid from the Class V School Employees Retirement Fund.

**Source:** Laws 2016, LB447, § 34; Laws 2017, LB415, § 40.

**79-9,101 Employees retirement system; annuity; election; remaining payments.**

Any time prior to receiving the first annuity payment, the member may elect to receive in lieu of such annuity, but payable in the same manner, an actuarially equivalent annuity in one of the following forms:

(1) A joint and survivorship annuity which shall continue after the death of the member to the death of the (a) member's spouse or (b) other designated beneficiary whose adjusted age in the calendar year in which the payment of the annuity commences is no more than ten years less than the attained age of the member in such calendar year;

(2) A joint and survivorship annuity which shall continue after the death of the member so that seventy-five percent of the amount of the member's monthly benefit under this option shall be paid monthly to the (a) member's spouse until his or her death or (b) other designated beneficiary whose adjusted age in the calendar year in which the payment of the annuity commences is no more than nineteen years less than the attained age of the member in such calendar year until his or her death;

(3) An annuity payable monthly during the remainder of the member's life with the provision that in the event of his or her death before one hundred twenty monthly payments have been made the monthly payments will be continued as provided in this section until a total of one hundred twenty monthly payments have been made;

(4) A joint and survivorship annuity which will continue after the death of the member to the death of the (a) member's spouse or (b) other designated beneficiary whose adjusted age in the calendar year in which the payment of the annuity commences is no more than ten years less than the attained age of the member in such calendar year but which annuity shall, upon the spouse's or designated beneficiary's death before the death of the member, be increased

after such death for the remaining life of the member so that the monthly benefit equals the monthly benefit which would have been payable to the member had the member selected the normal form of the formula retirement annuity specified in section 79-9,100; or

(5) A joint and survivorship annuity which shall continue after the death of the member so that fifty percent of the amount of the member's monthly benefit under this option shall be paid monthly to a designated beneficiary until his or her death.

For purposes of the annuities provided in subdivisions (1), (2), and (4) of this section, a designated beneficiary's adjusted age means the attained age of the designated beneficiary in the calendar year in which payment of the annuity commences plus the number of years, if any, by which the member's attained age in the calendar year in which payment of the annuity commences is younger than seventy years.

Each of these actuarially equivalent annuities, except for the form provided in subdivision (3) of this section, shall continue for a minimum of sixty months.

The amount of each monthly payment shall be the amount specified in the form elected by the member.

Whether the member elects the normal form or one of the optional forms of the formula retirement annuity, if the member and his or her designated beneficiary die before the specified monthly payments have been made, the remaining number of the specified payments shall be paid to the individual or individuals designated in writing, on forms prescribed by the system, by the last surviving of the member or the member's designated beneficiary and, if no such designation is made, to the estate of the last surviving of the member or the member's designated beneficiary. At the election of a beneficiary, a single sum payment which is the actuarial equivalent of the remaining monthly payments to be paid to such beneficiary may be paid in lieu of the annuity benefit otherwise to be provided under the normal form or the optional form described in subdivision (3) of this section.

**Source:** Laws 1951, c. 274, § 15, p. 919; Laws 1985, LB 215, § 4; Laws 1989, LB 237, § 3; Laws 1991, LB 350, § 5; Laws 1993, LB 107, § 6; Laws 1995, LB 505, § 7; R.S.Supp.,1995, § 79-1046; Laws 1996, LB 900, § 636; Laws 2001, LB 711, § 13; Laws 2005, LB 364, § 15.

**79-9,102 Employees retirement system; annuity or other benefit; limitations.**

(1) Notwithstanding any other provision of the Class V School Employees Retirement Act, no member or beneficiary of the retirement system shall receive in any calendar year an annuity or other benefit which would exceed the maximum benefit permitted under section 415 of the Internal Revenue Code, or any successor provision and the regulations issued thereunder, as they may be amended from time to time, and as adjusted as of January 1 of each calendar year to the dollar limitation as determined for such year by the Commissioner of Internal Revenue pursuant to section 415(d) of the Internal Revenue Code to reflect cost-of-living adjustments, and the amount of benefit to be paid to any member or beneficiary by the retirement system shall be adjusted each calendar year, if necessary, to conform with the maximum benefit permitted under section 415 of the Internal Revenue Code. The cost-of-living adjustment to the maximum benefit permitted under section 415 of the

Internal Revenue Code shall apply to determining the maximum benefit of a member who severed employment or commenced receiving benefits prior to the effective date of the adjustment.

(2) Any payments provided for by sections 79-990, 79-991, and 79-992 for the purchase or restoration of creditable service shall be subject to the limitations of section 415 of the Internal Revenue Code on annual additions to the retirement system. Until September 1, 2024, the board, and, beginning September 1, 2024, the retirement board, may suspend payments, alter installment periods, or, if such suspension or alteration is not possible, deny the purchase of all or a portion of the creditable service desired to be purchased, as necessary to comply with the requirements of section 415 of the Internal Revenue Code.

(3) This section is intended to meet and incorporate the requirements of section 415 of the Internal Revenue Code and regulations under that section that are applicable to governmental plans and shall be construed in accordance with section 415 of the Internal Revenue Code and the regulations issued thereunder and shall, by this reference, incorporate any subsequent changes made to such section as the same may apply to the retirement system.

**Source:** Laws 1985, LB 215, § 8; Laws 1995, LB 574, § 75; R.S.Supp., 1995, § 79-1046.01; Laws 1996, LB 900, § 637; Laws 1997, LB 623, § 31; Laws 1998, LB 497, § 22; Laws 2013, LB263, § 27; Laws 2016, LB447, § 35; Laws 2021, LB147, § 30.

**79-9,103 Annuity payment; cost-of-living adjustments; additional adjustments.**

(1) Any annuity paid on or after September 1, 1983, to a member who retired prior to February 21, 1982, pursuant to the Class V School Employees Retirement Act, or to such member's beneficiary, or to a person who retired under the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, or to such person's beneficiary, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1983, except that such increase shall not exceed the sum of one dollar and fifty cents per month for each year of creditable service and one dollar per month for each completed year of retirement as measured from the effective date of retirement to June 30, 1983. No separate adjustment in such annuity shall be made as a result of the changes made in section 79-9,113 pursuant to Laws 1983, LB 488. If a joint and survivor annuity was elected, the increase shall be actuarially adjusted so that the joint and survivor annuity remains the actuarial equivalent of the life annuity otherwise payable.

(2) In addition to the cost-of-living adjustment provided in subsection (1) of this section, any annuity paid on or after September 1, 1986, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before September 1, 1985, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1986, except that such increase shall not exceed (a) three and one-half percent for annuities first paid on or after September 1, 1984, (b) seven percent for annuities first paid on or after

September 1, 1983, but before September 1, 1984, or (c) ten and one-half percent for all other annuities.

(3) In addition to the cost-of-living adjustments provided in subsections (1) and (2) of this section, any annuity paid on or after September 1, 1989, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before September 1, 1988, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1989, except that such increase shall not exceed (a) three percent for annuities first paid on or after September 1, 1987, (b) six percent for annuities first paid on or after September 1, 1986, but before September 1, 1987, or (c) nine percent for all other annuities.

(4) In addition to the cost-of-living adjustments provided in subsections (1), (2), and (3) of this section, any annuity paid on or after September 1, 1992, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1991, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1992, except that such increase shall not exceed (a) three percent for annuities first paid after October 1, 1990, (b) six percent for annuities first paid after October 1, 1989, but on or before October 1, 1990, or (c) nine percent for all other annuities.

(5) In addition to the cost-of-living adjustments provided in subsections (1), (2), (3), and (4) of this section, any annuity paid on or after September 1, 1995, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1994, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1995, except that such increase shall not exceed (a) three percent for annuities first paid after October 1, 1993, (b) six percent for annuities first paid after October 1, 1992, but on or before October 1, 1993, or (c) nine percent for all other annuities.

(6) In addition to the cost-of-living adjustments provided in subsections (1), (2), (3), (4), and (5) of this section, any annuity paid pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1994, shall be subject to adjustment to equal the greater of (a) the annuity payable to the member or beneficiary as adjusted, if applicable, under the provisions of subsection (1), (2), (3), (4), or (5) of this section or (b) ninety percent of the annuity which results when the original annuity that was paid to the member or beneficiary (before any cost-of-living adjustments under this section), is adjusted by the increase in the cost of living or wage levels between the commencement date of the annuity and June 30, 1995.

(7) In addition to the cost-of-living adjustments provided in subsections (1), (2), (3), (4), (5), and (6) of this section, any annuity paid on or after September 1, 1998, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or

before October 3, 1997, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1998, except that such increase shall not exceed (a) three percent for annuities first paid after October 1, 1996, (b) six percent for annuities first paid after October 1, 1995, but on or before October 1, 1996, or (c) nine percent for all other annuities.

(8) Beginning January 1, 2000, and on January 1 of every year thereafter, for employees of Class V school districts who were members prior to July 1, 2013, a cost-of-living adjustment shall be made for any annuity being paid pursuant to the act, or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 3 preceding such January 1 adjustment date. The cost-of-living adjustment for any such annuity shall be the lesser of (a) one and one-half percent or (b) the increase in the consumer price index from the date such annuity first became payable through the August 31 preceding the January 1 adjustment date as reduced by the aggregate cost-of-living adjustments previously made to the annuity pursuant to this section.

(9) Beginning January 1, 2014, and on January 1 of every year thereafter, for employees of Class V school districts who became members on or after July 1, 2013, a cost-of-living adjustment shall be made for any annuity being paid pursuant to the act and on which the first payment was dated on or before October 3 preceding such January 1 adjustment date. The cost-of-living adjustment for any such annuity shall be the lesser of (a) one percent or (b) the increase in the consumer price index from the date such annuity first became payable through the August 31 preceding the January 1 adjustment date as reduced by the aggregate cost-of-living adjustments previously made to the annuity pursuant to this section.

(10) Beginning September 1, 1999, the actuary shall make an annual valuation of the assets and liabilities of the system. If the annual valuation made by the actuary, as approved by the board of trustees, indicates that the system has sufficient actuarial surplus to provide for a cost-of-living adjustment in addition to the adjustment made pursuant to subsection (8) or (9) of this section, the board of trustees may, in its discretion, declare by resolution that each annuity being paid pursuant to the act, or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 3 of the year such resolution is adopted, shall be increased beginning as of the January 1 following the date of the board of trustees' resolution by such percentage as may be declared by the board of trustees, except that such increase for any such annuity shall not exceed the increase in the consumer price index from the date such annuity first became payable through the applicable valuation date as reduced by the aggregate cost-of-living adjustments previously made to the annuity pursuant to this section.

(11) Except for the adjustments pursuant to subsection (13) of this section, the consumer price index to be used for determining any cost-of-living adjustment under this section shall be the Consumer Price Index - All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor. If this consumer price index is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board if before September 1, 2024, or by the retirement board if

on or after September 1, 2024. Any substitute index selected shall be a reasonable representative measurement of the cost of living for retired employees. An annuity as increased by any cost-of-living adjustment made under this section shall be considered the base annuity amount for the purpose of future adjustments pursuant to this section. In no event shall any cost-of-living adjustment be deemed to affect or increase the amount of the base retirement annuity of a member as determined under section 79-999 or 79-9,100.

(12) Any decision or determination by the board or retirement board, as applicable, (a) to declare or not declare a cost-of-living adjustment, (b) as to whether the annual valuation indicates a sufficient actuarial surplus to provide for a cost-of-living adjustment, or (c) pursuant to the selection of a substitute index shall be made in the sole, absolute, and final discretion of the board or retirement board, as applicable, and shall not be subject to challenge by any member or beneficiary. In no event shall the Legislature be constrained or limited in amending the system or increasing the benefits of members under the system, nor shall the board or retirement board, as applicable, be constrained from supporting any such change to the system, notwithstanding the effect of any such change upon the actuarial surplus of the system and the ability of the board or retirement board, as applicable, to declare future cost-of-living adjustments.

(13) The Legislature finds and declares that there exists in this state a pressing need to attract and retain qualified and dedicated public school employees and that one of the factors prospective public school employees consider when seeking or continuing public school employment is the retirement system and benefits the employment provides. The Legislature further finds that over the past decades, as reflected by the Medical Price Index published by the United States Department of Labor, the cost of medical care, including the cost of medications and insurance coverages, has increased at a rate in excess of that by which the Consumer Price Index - All Urban Consumers has increased. The Legislature further finds and declares that there accordingly exists a need to adjust the amount of retirement benefits paid to retired public school employees in order to assist them in meeting the increased cost of medical care. Therefor, in addition to the cost-of-living adjustments provided in subsections (1) through (12) of this section, commencing on October 3, 2001, and on October 3 of every year thereafter, a medical cost-of-living adjustment shall be paid to any annuitant who became a member prior to July 1, 2016, and has been paid an annuity from the retirement system for at least ten years through the October 3 adjustment date. The cost-of-living adjustment shall be paid in the form of a supplemental annuity providing monthly payments equal to the amount which results when (a) the fraction, not to exceed one, that results when the annuitant's years of creditable service at his or her retirement date is divided by twenty, is multiplied by (b) the product of ten dollars times the number of years, including attained one-half years, that such annuitant has received annuity payments from the retirement system through the October 3 adjustment date. The supplemental annuity being paid to an annuitant shall increase by ten dollars on October 3 of each subsequent year to reflect the additional year of annuity payments to the annuitant until the total amount of the supplemental annuity is two hundred fifty dollars. In no event shall the medical cost-of-living adjustment for any annuitant pursuant to this subsection result in the payment of a supplemental annuity exceeding two hundred fifty dollars per month. The supplemental annuity paid to an annuitant pursuant to

this subsection shall cease at the death of the annuitant regardless of the form of retirement annuity being paid to the annuitant at the time of his or her death.

**Source:** Laws 1983, LB 488, § 2; Laws 1986, LB 1048, § 5; Laws 1989, LB 237, § 8; Laws 1992, LB 1001, § 26; Laws 1993, LB 107, § 11; Laws 1995, LB 505, § 9; R.S.Supp.,1995, § 79-1056.06; Laws 1996, LB 900, § 638; Laws 1998, LB 497, § 23; Laws 2001, LB 711, § 14; Laws 2013, LB553, § 12; Laws 2016, LB447, § 36; Laws 2021, LB147, § 31.

**79-9,104 Employees retirement system; annuities; benefits; exempt from claims of creditors; exceptions.**

(1) All annuities and other benefits payable under the Class V School Employees Retirement Act and all accumulated credits of members of the retirement system shall not be assignable or subject to execution, garnishment, or attachment except to the extent that such annuity or benefit is subject to a qualified domestic relations order as such term is defined in and which meets the requirements of section 414(p) of the Internal Revenue Code. Payments under such a qualified domestic relations order shall be made only after the administrator of the retirement system receives written notice of such order and such additional information and documentation as the administrator may require.

(2) In lieu of the assignment of a member's future annuity or benefit to the member's spouse or former spouse, the retirement system shall permit the spouse or former spouse of a member to receive, pursuant to a qualified domestic relations order, a single sum payment of a specified percentage of the member's accumulated contributions on the condition that upon the payment of such amount the spouse or former spouse shall have no further interest in the retirement system or in the remaining benefit of the member under the retirement system.

(3) A member's interest and benefits under the retirement system shall be reduced, either at termination of employment, retirement, disability, or death, by the actuarial value of the benefit assigned or paid to the member's spouse, former spouse, or other dependents under a qualified domestic relations order, as determined by the plan actuary on the basis of the actuarial assumptions then recommended by the actuary pursuant to section 79-984.

**Source:** Laws 1951, c. 274, § 29, p. 925; Laws 1991, LB 350, § 8; R.S.1943, (1994), § 79-1060; Laws 1996, LB 900, § 639; Laws 1997, LB 623, § 32; Laws 1998, LB 497, § 24; Laws 2000, LB 155, § 3; Laws 2012, LB916, § 26; Laws 2015, LB40, § 11.

**79-9,105 Employees retirement system; member; disability; benefits.**

(1) Any member with five or more years of creditable service, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, who becomes totally disabled for further performance of duty on or after March 22, 2000, may be approved for deferred disability retirement by the board until September 1, 2024, and by the retirement board beginning September 1, 2024. In the case of such deferred disability retirement, the member, during the period specified in subsection (3) of this section, shall be credited with creditable service for each year or portion thereof, to be determined in

accordance with policies of the board or retirement board, as applicable, governing creditable service, that the member defers retirement, up to a maximum of thirty-five years of total creditable service, including creditable service accrued before the member became totally disabled. The member approved for deferred disability retirement may at any time of the member's choosing request the deferral to end and retirement annuity payments to begin. The retirement annuity of such member shall be based on the total number of years of the member's creditable service, including the years credited to the member during his or her total disability under this section, and the member's final average salary as of the date that the member became totally disabled and as adjusted from such date by a percentage equal to the cumulative percentage cost-of-living adjustments that were made or declared for annuities in pay status pursuant to section 79-9,103 after the date of the approval of the board or retirement board, as applicable, for deferred disability retirement and before the cessation of the accrual of additional creditable service pursuant to subsection (3) of this section. Except as provided in subsection (4) of this section, the retirement annuity so determined for the member shall be payable to the member without reduction due to any early commencement of benefits, except that the retirement annuity shall be reduced by the amount of any periodic payments to such employee as workers' compensation benefits. Additional creditable service acquired through deferred disability retirement shall apply to the service requirements specified in section 79-9,106. The board or retirement board, as applicable, shall consider a member to be totally disabled when it has received an application by the member and a statement by at least two licensed and practicing physicians designated by the board or retirement board, as applicable, certifying that the member is totally and presumably permanently disabled and unable to perform his or her duties as a consequence thereof.

(2) Notwithstanding the provisions of subsection (1) of this section, the payment of the retirement annuity of a member may not be deferred later than the member's required beginning date as defined in section 401(a)(9) of the Internal Revenue Code, as defined in section 49-801.01. If the payment of a disabled member's retirement annuity is required to commence before the member has elected to end his or her deferred disability retirement, the amount of benefit that would have accrued pursuant to subsection (1) of this section in the fiscal year of the member's required beginning date, and in each subsequent fiscal year through the year of the member's election to end the deferred disability retirement period, shall be reduced, but not below zero, by the actuarial equivalent of the payments which were paid to the member during each such fiscal year and after the member's required beginning date. The retirement annuity of any member that commences before the end of the member's deferred disability retirement shall be adjusted as of each September 1 pursuant to the requirements of this subsection.

(3) The accrual of creditable service and any adjustment of final average salary provided in subsection (1) of this section shall begin from the first day of the month following the date of the first of the two examinations by which the member is determined by the board or the retirement board, as applicable, to be totally disabled, shall continue only so long as the member does not receive any wages or compensation for services, and shall end at the earlier of (a) the time total disability ceases as determined by the board or the retirement board, as applicable, or (b) the date the member elects to end the deferred disability retirement and begin to receive his or her retirement annuity. The board or the



retirement board, as applicable, may require periodic proof of disability but not more frequently than semiannually.

(4)(a) For an employee hired prior to July 1, 2018, the payment of any retirement annuity to a disabled member, which begins to be paid under this section (i) before the member's sixty-second birthday or (ii) at a time before the sum of the member's attained age and creditable service is eighty-five or more, shall be suspended if the board or the retirement board, as applicable, determines at any time before the member's sixty-second birthday that the member's total disability has ceased.

(b) For an employee hired on or after July 1, 2018, the payment of any retirement annuity to a disabled member, which begins to be paid under this section (i) before the member's sixty-fifth birthday or (ii) at a time before the sum of the member's attained age and creditable service is eighty-five or more, shall be suspended if the board or the retirement board, as applicable, determines at any time before the member's sixty-fifth birthday that the member's total disability has ceased.

(c) Payment of the retirement annuity of such member as determined under this section shall recommence at the member's early retirement date or normal retirement date but shall be subject to reduction at such time as specified in section 79-9,100.

**Source:** Laws 1951, c. 274, § 17, p. 919; Laws 1957, c. 354, § 2, p. 1202; Laws 1963, c. 490, § 2, p. 1565; Laws 1982, LB 131, § 7; Laws 1985, LB 215, § 6; Laws 1987, LB 298, § 9; Laws 1988, LB 551, § 5; Laws 1991, LB 350, § 6; Laws 1993, LB 107, § 8; R.S.1943, (1994), § 79-1048; Laws 1996, LB 900, § 640; Laws 2000, LB 155, § 4; Laws 2001, LB 711, § 15; Laws 2013, LB553, § 13; Laws 2016, LB447, § 37; Laws 2017, LB415, § 41; Laws 2021, LB147, § 32.

**79-9,106 Employees retirement system; member; death; effect; survivorship annuity; amount; direct transfer to retirement plan; death while performing qualified military service; additional death benefit.**

(1) Upon the death of a member who has not yet retired and who has twenty years or more of creditable service, the member's primary beneficiary, as designated by the member in writing on forms provided by the system, shall receive a survivorship annuity in accordance with subdivision (1) of section 79-9,101 if the primary beneficiary is (a) the member's spouse or (b) one other designated beneficiary whose attained age in the calendar year of the member's death is no more than ten years less than the attained age of the member in such calendar year. The amount of such actuarially equivalent annuity shall be calculated using the attained ages of the member and the beneficiary and be based on the annuity earned to the date of the member's death without reduction due to any early commencement of benefits. Within sixty days from the date of the member's death, if the member has not previously filed with the administrator of the retirement system a form requiring that only the survivorship annuity be paid, the beneficiary may request to receive in a lump sum an amount equal to the member's accumulated contributions. If prior to the member's death, the member files with the administrator of the retirement system a form requiring that the beneficiary receive a lump-sum settlement in lieu of the survivorship annuity, the beneficiary shall receive, in lieu of the

survivorship annuity, a lump-sum settlement in an amount equal to the member's accumulated contributions notwithstanding any other provision of this section.

(2) Upon the death of a member who has not yet retired and who has less than twenty years of creditable service or upon the death of a member who has not yet retired and who has twenty years or more of creditable service but whose beneficiary does not meet the criteria in subsection (1) of this section, a lump sum in an amount equal to the member's accumulated contributions shall be paid pursuant to section 79-9,119.

(3) A lump-sum death benefit paid pursuant to subsection (1) or (2) of this section, other than the member's estate, that is an eligible distribution may be distributed in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(4) For any member whose death occurs on or after January 1, 2007, while performing qualified military service as defined in section 414(u) of the Internal Revenue Code, the member's beneficiary shall be entitled to any additional death benefit that would have been provided, other than the accrual of any benefit relating to the period of qualified military service. The additional death benefit shall be determined as if the member had returned to employment with the school district and such employment had terminated on the date of the member's death.

**Source:** Laws 1951, c. 274, § 16, p. 919; Laws 1965, c. 527, § 1, p. 1659; Laws 1967, c. 544, § 2, p. 1788; Laws 1982, LB 131, § 6; Laws 1985, LB 215, § 5; Laws 1992, LB 1001, § 24; Laws 1993, LB 107, § 7; R.S.1943, (1994), § 79-1047; Laws 1996, LB 900, § 641; Laws 2001, LB 711, § 16; Laws 2012, LB916, § 27; Laws 2019, LB34, § 20.

**79-9,107 Employees retirement system; funds; investment; violations; penalty.**

The funds of the retirement system which are not required for current operations shall be invested and reinvested (1) before January 1, 2017, by the board of trustees subject to the approval of the board of education or Class V Retirement System Board as provided in sections 79-9,108 to 79-9,111 and (2) on and after January 1, 2017, by the council and the state investment officer in accordance with the Nebraska State Funds Investment Act without the approval of the board of education, board of trustees, or retirement board, as applicable. Except as otherwise provided in the Class V School Employees Retirement Act, no trustee and no member of the board of education shall have any direct interest in the income, gains, or profits of any investment made by the board of trustees, nor shall any such person receive any pay or emolument for services in connection with any such investment. Neither the state investment officer nor any trustee, member of the board of education, member of the retirement board, nor member of the council shall become an endorser or surety or in any manner an obligor for money loaned by or borrowed from the retirement system. Any person who violates any of these restrictions shall be guilty of a Class II misdemeanor.

**Source:** Laws 1951, c. 274, § 20, p. 921; Laws 1967, c. 545, § 1, p. 1791; Laws 1977, LB 39, § 257; Laws 1986, LB 1048, § 1; Laws 1989,

LB 237, § 4; R.S.1943, (1994), § 79-1051; Laws 1996, LB 900, § 642; Laws 1998, LB 497, § 25; Laws 2006, LB 1024, § 67; Laws 2016, LB447, § 38; Laws 2021, LB147, § 33.

Cross References

Nebraska State Funds Investment Act, see section 72-1260.

**79-9,108 Employees retirement system; funds; investment.**

(1) Prior to January 1, 2017, the board of trustees, with approval of the board of education or Class V Retirement System Board, shall invest and reinvest funds of the retirement system. Beginning January 1, 2017, the funds of the retirement system shall be invested and reinvested solely by the council and the state investment officer in accordance with the Nebraska State Funds Investment Act.

(2) Prior to January 1, 2017, a professional investment manager may be employed by the board of trustees subject to approval of the board of education or Class V Retirement System Board. The professional investment manager shall be responsible for the purchase, sale, exchange, investment, or reinvestment of such funds subject to guidelines determined by the board of trustees. Prior to January 1, 2017, the trustees shall each month submit a report to the board of education or Class V Retirement System Board with respect to the investment of funds. The board of education or Class V Retirement System Board shall approve or disapprove the investments in the report, and in the event of disapproval of any investment, the board of trustees shall direct the sale of all or part of such investment or establish future policy with respect to that type of investment. Beginning January 1, 2017, the funds of the retirement system shall be invested and reinvested by the council and the state investment officer, who may employ advisers, counsel, managers, and other professionals in accordance with the Nebraska State Funds Investment Act.

(3) Beginning January 1, 2017, the board of trustees, the board of education, and the retirement board shall not have any duty, responsibility, or authority for the investment and reinvestment of the funds of the retirement system, or any investment decision, contract, rule, or regulation related thereto.

**Source:** Laws 1967, c. 545, § 2, p. 1791; Laws 1991, LB 350, § 7; R.S.1943, (1994), § 79-1051.01; Laws 1996, LB 900, § 643; Laws 2006, LB 1024, § 68; Laws 2016, LB447, § 39; Laws 2021, LB147, § 34.

Cross References

Nebraska State Funds Investment Act, see section 72-1260.

**79-9,109 Employees retirement system; investments; default of principal or interest; trustees; powers and duties.**

Prior to January 1, 2017, in the event of default in the payment of principal of, or interest on, the investments made, the board of trustees are authorized to institute the proper proceedings to collect such matured principal or interest, and may, with approval of the board of education or Class V Retirement System Board, accept for exchange purposes, refunding bonds or other evidences of indebtedness with interest rates to be agreed upon with the obligor. Prior to January 1, 2017, the board of trustees, with the approval of the board of education or Class V Retirement System Board, are further authorized to make

such compromises, adjustments, or disposition of the past-due interest or principal as are in default, or to make such compromises and adjustments as to future payments of interest or principal as deemed advisable for the purpose of protecting the investment.

**Source:** Laws 1967, c. 545, § 3, p. 1792; R.S.1943, (1994), § 79-1051.02; Laws 1996, LB 900, § 644; Laws 2006, LB 1024, § 69; Laws 2016, LB447, § 40.

**79-9,110 Employees retirement system; investments; mortgages on real property, when.**

Investments may also be made in first mortgages on improved real property which are insured by the Federal Housing Administration under the National Housing Act, are guaranteed by the United States Department of Veterans Affairs under the federal Veterans' Benefits Act of 1958 and any amendments thereto, or are otherwise insured or guaranteed by the United States of America or any agency or instrumentality thereof so as to give the investor protection essentially the same as that provided by such National Housing Act or federal Veterans' Benefits Act of 1958 and any amendments thereto or in notes, bonds, or debentures fully collateralized by such protected mortgages.

**Source:** Laws 1967, c. 545, § 6, p. 1795; Laws 1991, LB 2, § 21; R.S.1943, (1994), § 79-1051.05; Laws 1996, LB 900, § 645.

**79-9,111 Employees retirement system; investments; board of trustees; powers and duties; state investment officer; powers and duties.**

The board of trustees shall invest the funds of the retirement system in investments of the nature which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another. Such investments shall not be made for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. The board of trustees shall not purchase investments on margin or enter into any futures contract or other contract obligation which requires the payment of margin or enter into any similar contractual arrangement which may result in losses in excess of the amount paid or deposited with respect to such investment or contract, unless such transaction constitutes a hedging transaction or is incurred for the purpose of portfolio or risk management for the funds and investments of the system. Prior to January 1, 2017, the board of trustees may write covered call options or put options. Prior to January 1, 2017, the board of trustees shall establish written guidelines for any such option, purchase, or contract obligation. Any such option, purchase, or contract obligation shall be governed by the prudent investment rule stated in this section for investment of the funds of the system. The board of trustees may lend any security if cash, United States Government obligations, or United States Government agency obligations with a market value equal to or exceeding the market value of the security lent are received as collateral. Prior to January 1, 2017, if shares of stock are purchased under this section, all proxies may be voted by the board of trustees prior to January 1, 2017. As of January 1, 2017, the funds of the retirement system shall be invested solely by the council and the state investment officer in accordance with the Nebraska State Funds Investment Act. The

state investment officer may lend securities and vote proxies in accordance with the standard set forth in section 72-1246.

**Source:** Laws 1989, LB 237, § 6; R.S.1943, (1994), § 79-1051.07; Laws 1996, LB 900, § 646; Laws 1997, LB 624, § 26; Laws 2016, LB447, § 41.

**Cross References**

Nebraska State Funds Investment Act, see section 72-1260.

**79-9,112 Repealed. Laws 2001, LB 711, § 21.**

**79-9,113 Employees retirement system; required contributions; payment; membership service annuity; computations.**

(1)(a) Commencing September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five percent of salary or wages earned above that amount in the same fiscal year. Commencing September 1, 1976, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and nine-tenths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five and twenty-five hundredths percent of salary or wages earned above that amount in the same fiscal year. Commencing on September 1, 1982, all employees of the school district shall contribute an amount equal to the membership contribution which shall be four and nine-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1989, all employees of the school district shall contribute an amount equal to the membership contribution which shall be five and eight-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1995, all employees of the school district shall contribute an amount equal to the membership contribution which shall be six and three-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 2007, all employees of the school district shall contribute an amount equal to the membership contribution which shall be seven and three-tenths percent of the compensation paid in each fiscal year. Commencing September 1, 2009, all employees of the school district shall contribute an amount equal to the membership contribution which shall be eight and three-tenths percent of the compensation paid in each fiscal year. Commencing September 1, 2011, all employees of the school district shall contribute an amount equal to the membership contribution which shall be nine and three-tenths percent of the compensation paid in each fiscal year. Commencing September 1, 2013, all employees of the school district shall contribute an amount equal to the membership contribution which shall be nine and seventy-eight hundredths percent of the compensation paid in each fiscal year.

(b) The contributions by the school district in any fiscal year beginning on or after September 1, 1999, shall be the greater of (i) one hundred percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board of education upon recommendation of the actuary and the board of trustees.

(c) The contributions by the school district in any fiscal year beginning on or after September 1, 2007, and prior to September 1, 2018, shall be the greater of

(i) one hundred one percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board of education upon recommendation of the actuary retained by the board of trustees and after considering any amounts that will be, or are expected to be, transferred to the system pursuant to subdivision (1)(b) of section 79-966. The amount necessary to maintain the solvency of the system as determined in subdivision (ii) of this subdivision (c) shall be transmitted by the school district to the account of the retirement system no later than August 31, 2018. The school district contributions specified in subdivision (i) of this subdivision (c) shall be made monthly and shall be immediately transmitted to the account of the retirement system.

(d) The contributions by the school district in any fiscal year beginning on or after September 1, 2018, and prior to September 1, 2024, shall be the greater of (i) one hundred one percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board of education upon recommendation of the actuary retained by the board of trustees and after considering any amounts pursuant to subdivision (1)(b) of section 79-966 that will be, or are expected to be, transferred to the school district by the State Treasurer. The amount necessary to maintain the solvency of the system as determined in subdivision (ii) of this subdivision (d) shall be transmitted by the school district to the account of the retirement system no later than August 31, 2019, and each August 31 thereafter. The school district contributions specified in subdivision (i) of this subdivision (d) shall be made monthly and shall be immediately transmitted to the account of the retirement system.

(e) The contributions by the school district in any fiscal year beginning on or after September 1, 2024, shall be the greater of:

(i) One hundred one percent of the contributions by the employees for such fiscal year; or

(ii) Such amount as may be necessary to maintain the solvency of the system, as determined annually by the board of education upon recommendation of the actuary retained by the retirement board pursuant to section 79-984 and after considering any amounts pursuant to subdivision (1)(b) of section 79-966 that will be, or are expected to be, transferred to the school district by the State Treasurer for transfer by the school district to the retirement system.

(f) The amount necessary to maintain the solvency of the system as determined in subdivision (1)(e)(ii) of this section shall be transmitted by the school district to the Class V School Employees Retirement Fund no later than August 31, 2025, and each August 31 thereafter.

(g) The school district contributions specified in subdivision (1)(e)(i) of this section shall be made monthly and shall be immediately transmitted to the Class V School Employees Retirement Fund.

(h) Nothing in this section prohibits the school district from making other contributions in addition to the contributions required pursuant to this section.

(i) The employee's contribution shall be made in the form of a monthly deduction from compensation as provided in subsection (2) of this section and shall be immediately transmitted to the account of the retirement system. Every employee who is a member of the system shall be deemed to consent and agree to such deductions and shall receipt in full for compensation, and payment to such employee of compensation less such deduction shall constitute a full and

complete discharge of all claims and demands whatsoever for services rendered by such employee during the period covered by such payment except as to benefits provided under the Class V School Employees Retirement Act.

(j) After September 1, 1963, and prior to September 1, 1969, all employees shall be credited with a membership service annuity which shall be nine-tenths of one percent of salary or wage covered by old age and survivors insurance and one and one-half percent of salary or wages above that amount, except that those employees who retire on or after August 31, 1969, shall be credited with a membership service annuity which shall be one percent of salary or wages covered by old age and survivors insurance and one and sixty-five hundredths percent of salary or wages above that amount for service performed after September 1, 1963, and prior to September 1, 1969. Commencing September 1, 1969, all employees shall be credited with a membership service annuity which shall be one percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during each fiscal year and one and sixty-five hundredths percent of salary or wages earned above that amount in the same fiscal year, except that all employees retiring on or after August 31, 1976, shall be credited with a membership service annuity which shall be one and forty-four hundredths percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during such fiscal year and two and four-tenths percent of salary or wages earned above that amount in the same fiscal year, and the retirement annuities of employees who have not retired prior to September 1, 1963, and who elected under the provisions of section 79-988 as such section existed immediately prior to February 20, 1982, not to become members of the system shall not be less than they would have been had they remained under any preexisting system to date of retirement.

(k) Members of this system having the service qualifications of members of the School Employees Retirement System of the State of Nebraska, as provided by section 79-926, who are members of the retirement system established pursuant to the Class V School Employees Retirement Act prior to July 1, 2016, shall receive the state service annuity provided by sections 79-933 to 79-935 and 79-951.

(2) The school district shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The school district shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The school district shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Beginning September 1, 1995, the school district shall also pick up any contributions required by sections 79-990, 79-991, and 79-992 which are made under an irrevocable payroll deduction authorization between the member and the school district, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to

withhold federal and state income taxes based upon these contributions until the Internal Revenue Service rules that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed from the system. Employee contributions picked up shall be treated for all purposes of the Class V School Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

**Source:** Laws 1951, c. 274, § 25, p. 923; Laws 1953, c. 308, § 4, p. 1029; Laws 1955, c. 321, § 3, p. 993; Laws 1963, c. 490, § 5, p. 1567; Laws 1969, c. 724, § 2, p. 2755; Laws 1972, LB 1116, § 3; Laws 1976, LB 994, § 3; Laws 1982, LB 131, § 12; Laws 1983, LB 488, § 1; Laws 1984, LB 218, § 3; Laws 1989, LB 237, § 7; Laws 1995, LB 505, § 8; Laws 1995, LB 574, § 77; R.S.Supp.,1995, § 79-1056; Laws 1996, LB 900, § 648; Laws 1997, LB 623, § 33; Laws 1998, LB 497, § 26; Laws 1998, LB 1191, § 63; Laws 2000, LB 155, § 5; Laws 2007, LB596, § 3; Laws 2009, LB187, § 3; Laws 2011, LB382, § 4; Laws 2011, LB509, § 35; Laws 2013, LB553, § 14; Laws 2016, LB447, § 42; Laws 2018, LB1005, § 32; Laws 2021, LB147, § 35.

**Cross References**

For provisions of federal Social Security Act, see Chapter 68, article 6.

**79-9,113.01 Employer; deduction; remittance; late fees; interest charge.**

(1) An employer shall deduct and withhold an amount pursuant to section 79-9,113 from the compensation of an employee on each payroll period after such employee becomes a member of the retirement system. An employer shall transmit periodically, as directed by and in such form as is approved by the retirement board, such amounts and any information required by the retirement board. The retirement board shall immediately transmit to the State Treasurer all payments received.

(2) The retirement board may charge an employer a late administrative processing fee not to exceed twenty-five dollars if the information required by this section and the contributions from an employer consistent with the dates and frequency of transmittal as specified in section 79-9,113 are delinquent or are not timely received by the retirement board. In addition, the retirement board may charge an employer a late fee of thirty-eight thousandths of one percent of the amount required to be submitted pursuant to this section for each day such amount has not been received. The late fee may be used to make a member's account whole for any costs that may have been incurred by the member due to the late receipt of contributions. The retirement board shall charge an employer an amount equal to the interest which would have accrued if the delinquent report causes the employee to lose interest on his or her account. The proceeds of the interest charge shall be used to reimburse the account of each employee deprived of interest by the delay.

**Source:** Laws 2021, LB147, § 38.

**79-9,114 Employees retirement system; federal Social Security Act; agreement; coverage group.**

In the event that an agreement for social security under the provisions of section 218(d)(3) of the federal Social Security Act is made applicable to



services performed by employees in positions covered by the school employees retirement system and to services performed by employees who have elected under the provisions of section 79-988 as such section existed immediately prior to February 20, 1982, to remain under a preexisting system, such agreement shall also be made applicable to services performed by individuals as employees of the school district in positions not so covered, but which are otherwise eligible to the benefits of old age and survivors insurance under the provisions of section 218 of the federal Social Security Act as amended, and such employees shall be included in the coverage group, specified in such agreement.

**Source:** Laws 1955, c. 321, § 8, p. 995; R.S.1943, (1994), § 79-1056.05; Laws 1996, LB 900, § 649.

**79-9,115 Class V School Employees Retirement Fund; created; use; expenses; payment.**

(1) The Class V School Employees Retirement Fund is created.

(2) Until September 1, 2024, except as provided in this section:

(a) All allowances, annuities, or other benefits granted under the Class V School Employees Retirement Act, and all expenses incurred in connection with the administration of the act, except clerical work incurred in connection with maintenance of records and payment of benefits, shall be paid from the Class V School Employees Retirement Fund;

(b) Such clerical work shall be performed by employees of the school district or districts;

(c) The administrator and staff of the retirement system shall be permitted reasonable office and records storage space in the central office building of the Class V school district formed before September 13, 1997; and

(d) All expenses for the retirement system office accommodations and integrated pension benefit information management systems, including all services, support, furniture, and equipment provided to or by any central office department of the school district, shall be charged to the retirement system.

(3)(a) Beginning September 1, 2024, the required deposits of the school district and the amounts transferred to the school district by the State Treasurer for transmission to the retirement system and required deposits of the employees shall be credited to the Class V School Employees Retirement Fund and all allowances, annuities, and other benefits shall be paid from such fund as directed by the retirement board as provided in the Class V School Employees Retirement Act.

(b) The account of each member in the Class V School Employees Retirement Fund shall be credited with regular interest earned monthly, quarterly, semiannually, or annually as the retirement board may direct.

(4) Beginning on August 24, 2017, any expenses with respect to the transfer to and assumption by the council and the state investment officer of the duty and authority to invest the assets of a retirement system provided for under the Class V School Employees Retirement Act shall be charged to the Class V

School Employees Retirement Fund. Such expenses shall be paid without the approval of the board of trustees or the retirement board, as applicable.

**Source:** Laws 1951, c. 274, § 27, p. 925; R.S.1943, (1994), § 79-1058; Laws 1996, LB 900, § 650; Laws 1998, LB 497, § 27; Laws 2006, LB 1024, § 70; Laws 2016, LB447, § 43; Laws 2017, LB29, § 2; Laws 2021, LB147, § 36.

**79-9,115.01 Class V School Expense Fund; created; use.**

The Class V School Expense Fund is created. Beginning September 1, 2024, the fund shall be credited with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred as directed by the retirement board for the proper administration of the Class V School Employees Retirement Act and as necessary in connection with the administration and operation of the retirement system.

**Source:** Laws 2021, LB147, § 37.

**79-9,115.02 Class V School Expense Fund; Class V School Employees Retirement Fund; assets; investment.**

Beginning September 1, 2024, all assets of the retirement system shall be credited, according to the purpose for which they are held, to the Class V School Expense Fund or to the Class V School Employees Retirement Fund. Any money in the funds available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 2021, LB147, § 39.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

**79-9,116 Applicability of sections.**

Sections 79-993 to 79-996 and the changes to sections 79-978, 79-988, 79-991, 79-992, 79-999, and 79-9,105 and to section 79-1057 as such section existed immediately before May 30, 1987, made by Laws 1987, LB 298, shall not apply to employees retiring prior to May 30, 1987.

**Source:** Laws 1987, LB 298, § 11; R.S.1943, (1994), § 79-1060.01; Laws 1996, LB 900, § 651.

**79-9,117 Preretirement planning program or sessions; for whom; required information; funding; attendance; fee.**

(1)(a) Until September 1, 2024, the board of trustees shall establish a comprehensive preretirement planning program for school employees who are members of the retirement system. The program shall provide information and advice regarding the many changes members face upon retirement, including, but not limited to, changes in physical and mental health, housing, family life, leisure activity, and retirement income.

(b) Beginning September 1, 2024, the retirement board shall establish sessions as provided in section 84-1511 for school employees who are members of the retirement system.

(2) The preretirement planning program shall be available to all members.

(3) The preretirement planning program shall include information on the federal and state income tax consequences of the various annuity or retirement benefit options available to the member, information on social security benefits, information on various local, state, and federal government programs and programs in the private sector designed to assist elderly persons, and information and advice the board of trustees or retirement board, as applicable, deems valuable in assisting members in the transition from public employment to retirement.

(4) The board of trustees or retirement board, as applicable, shall work with any governmental agency, including political subdivisions or bodies whose services or expertise may enhance the development or implementation of the preretirement planning program.

(5) The costs of the preretirement planning program shall be charged back to the retirement system.

(6) An employer shall provide each member leave with pay to attend up to two preretirement planning programs. For purposes of this subsection, leave with pay means a day off paid by an employer and does not mean vacation, sick, personal, or compensatory time. A member may choose to attend a program more than twice, but such leave shall be at the expense of the member and shall be at the discretion of the employer. A member shall not be entitled to attend more than one preretirement planning program per fiscal year prior to actual election of retirement.

(7) A nominal registration fee may be charged to each person attending a preretirement planning program to cover the costs for meals, meeting rooms, or other expenses incurred under such program.

**Source:** Laws 2011, LB509, § 36; Laws 2013, LB263, § 28; Laws 2016, LB447, § 44; Laws 2021, LB147, § 40; Laws 2022, LB700, § 10; Laws 2024, LB198, § 15.  
Effective date March 19, 2024.

**79-9,118 Participation in retirement system; qualification.**

No employee shall be authorized to participate in the retirement system unless the employee is a United States citizen or is lawfully present in the United States. The employing public school and the school employee shall maintain at least one of the following documents which shall be unexpired, if applicable to the particular document, to demonstrate United States citizenship or lawful presence in the United States as of the employee's date of hire, and, beginning September 1, 2024, produce any such document so maintained upon request of the retirement board or the Nebraska Public Employees Retirement Systems:

- (1) A state-issued driver's license;
- (2) A state-issued identification card;
- (3) A certified copy of a birth certificate or delayed birth certificate issued in any state, territory, or possession of the United States;
- (4) A Consular Report of Birth Abroad issued by the United States Department of State;
- (5) A United States passport;
- (6) A foreign passport with a United States visa;

- (7) A United States Certificate of Naturalization;
- (8) A United States Certificate of Citizenship;
- (9) A tribal certificate of Native American blood or similar document;
- (10) A United States Citizenship and Immigration Services Employment Authorization Document, Form I-766;
- (11) A United States Citizenship and Immigration Services Permanent Resident Card, Form I-551; or
- (12) Any other document issued by the United States Department of Homeland Security or the United States Citizenship and Immigration Services granting employment authorization in the United States and approved (a) until September 1, 2024, by the board of trustees and (b) beginning September 1, 2024, by the retirement board.

**Source:** Laws 2011, LB509, § 37; Laws 2024, LB198, § 16.  
Effective date March 19, 2024.

**79-9,119 Beneficiary designation; order of priority.**

- (1) Except as provided in section 79-9,104, in the event of a member's death, the death benefit shall be paid to the following, in order of priority:
  - (a) To the member's surviving designated beneficiary as designated in writing on forms provided by the system;
  - (b) To the spouse married to the member on the member's date of death if there is no surviving designated beneficiary as designated in writing on forms provided by the system; or
  - (c) To the member's estate if the member is not married on the member's date of death and there is no surviving designated beneficiary as designated in writing on forms provided by the system.
- (2) The priority designations described in subsection (1) of this section shall not apply if the member has retired under a joint and survivor benefit option.

**Source:** Laws 2019, LB34, § 18.

**79-9,120 Legislative intent.**

It is the intent of the Legislature that the Public Employees Retirement Board develop a work plan, recommendations, cost estimates, and cost comparisons regarding the transfer of management of any Class V school employees retirement system established under the Class V School Employees Retirement Act and which existed on January 1, 2019, to the Public Employees Retirement Board.

**Source:** Laws 2019, LB31, § 2.

**79-9,121 Work plan for transfer of management and actuarial services; contents; access to records, documents, data, or other information; report; billing for work.**

- (1)(a) The Public Employees Retirement Board, in consultation with stakeholders including, but not limited to, the Nebraska Retirement Systems Committee of the Legislature and the board of trustees and employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act and which existed on January 1, 2019, shall develop a work plan for the transfer of management and actuarial services of any such

Class V school employees retirement system to the Public Employees Retirement Board.

(b) The work plan shall include, but not be limited to, a detailed analysis and recommendations regarding (i) management, administration, actuarial service, information technology, computer infrastructure, accounting, and member data and record transfer; (ii) necessary statutory changes to achieve the transfer of management and actuarial services; (iii) staff training and assessment of staffing needs; (iv) educational and communication plans to fully inform all system stakeholders and affected governmental entities regarding management changes; (v) sufficient timeframes for an orderly transition and implementation of management and actuarial changes; (vi) cost estimates associated with the tasks necessary to carry out the management transition; and (vii) a comparison of the current annual cost to administer any Class V school employees retirement system established under the Class V School Employees Retirement Act and which existed on January 1, 2019, with an estimate of the annual cost for the Public Employees Retirement Board to administer such system after a management transfer occurs.

(c) The employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act and which existed on January 1, 2019, shall provide all records, documents, data, or other information to the Public Employees Retirement Board within thirty calendar days after receiving a written request from the director of the Nebraska Public Employees Retirement Systems, or from the director's representative on behalf of the Public Employees Retirement Board, for such records, documents, data, or other information.

(d) The Public Employees Retirement Board shall electronically report the work plan, including any recommendations, cost estimates, and cost comparisons, to the Clerk of the Legislature no later than June 30, 2020.

(2) For purposes of this section, management does not include:

(a) A merger or consolidation of any Class V school employees retirement system established under the Class V School Employees Retirement Act and which existed on January 1, 2019, with the School Employees Retirement System of the State of Nebraska or any other retirement system administered by the Public Employees Retirement Board; or

(b) An assumption of any of the liability for any such Class V school employees retirement system by the State of Nebraska, the Public Employees Retirement Board, or the Nebraska Public Employees Retirement Systems.

(3) The Public Employees Retirement Board may quarterly bill the employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act and which existed on January 1, 2019, for all work performed by the Public Employees Retirement Board for services and related expenses in completion of the work plan described in this section. Such employer shall remit payment as provided in section 79-9,122 within forty-five calendar days after receipt of each bill.

**Source:** Laws 2019, LB31, § 3.

**79-9,122 Class V School Employees Retirement System Management Work Plan Fund; created; use; investment.**

(1) The Class V School Employees Retirement System Management Work Plan Fund is created. The purpose of the fund is to transfer funds as specified in this section. The fund shall consist of the amounts transferred from an employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act for all work performed by the Public Employees Retirement Board for services and related expenses in completion of the work described in sections 79-979.01, 79-9,121, and 79-9,124. The fund shall be administered by the Nebraska Public Employees Retirement Systems. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) An employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act shall remit the payments described in subsection (3) of section 79-9,121, subsection (3) of section 79-979.01, and section 79-9,124 to the State Treasurer for credit to the Class V School Employees Retirement System Management Work Plan Fund for all work performed by the retirement board for (a) services and related expenses in completion of the work plan, (b) additional identification and examination of issues as required under section 79-9,124, and (c) the transfer of management of the retirement system to the retirement board.

**Source:** Laws 2019, LB31, § 4; Laws 2021, LB147, § 41.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

**79-9,123 Work plan; billing for work; payment.**

(1) The administrator and board of trustees of any Class V school employees retirement system established under the Class V School Employees Retirement Act may quarterly bill the employer of such Class V school employees retirement system for all work performed and expenses incurred by the administrator, staff, and any consultants of the Class V school employees retirement system in response to requests for records, documents, data, or other information from the Nebraska Public Employees Retirement Systems or the retirement board in completion of the work plan described in section 79-9,121.

(2)(a) The retirement board may bill an employer of any Class V school employees retirement system monthly for all work performed and expenses incurred pursuant to section 79-9,124.

(b) The administrator and board of trustees of any Class V school employees retirement system established under the Class V School Employees Retirement Act may bill the employer of such Class V school employees retirement system monthly for all work performed and expenses incurred by the administrator, staff, and any consultants of the Class V school employees retirement system for the transition and transfer of management and general administration of such retirement system to the retirement board as described in section 79-979.01.

(3) An employer of a retirement system shall remit payment pursuant to this section to the board of trustees within forty-five calendar days after receipt of each monthly bill and to the retirement board within the time period and in the manner negotiated in the transition and transfer of management and administration plan entered into pursuant to section 79-979.01.

**Source:** Laws 2019, LB31, § 5; Laws 2021, LB147, § 42.

**79-9,124 Work plan; additional examination and evaluation; by whom; contents; expenses; compliance audit report; additional issues; powers and duties.**

(1) The Legislature finds that following completion and submission of the work plan by the retirement board pursuant to section 79-9,121, additional issues have emerged related to transfer of the management of any Class V school employees retirement system to the retirement board. Further examination and evaluation are necessary and shall be completed by the entities described in this section. Such additional examination and evaluation shall include, but not be limited to:

(a) Completion of a compliance audit of the retirement system as described in this section;

(b) Completion of the audits of the retirement system by the Auditor of Public Accounts pursuant to subsection (1)(b) of section 79-987; and

(c) Identification and examination of issues by the retirement board as described in subsection (8) of this section.

(2) The board of trustees shall obtain a compliance audit of the retirement system to be completed no later than November 15, 2021. The compliance audit shall be in addition to the annual audit conducted by the Auditor of Public Accounts pursuant to subsection (1)(b) of section 79-987.

(3) The compliance audit shall include an examination of records, files, and any other documents or resources of the retirement system and an evaluation of all policies and procedures of the retirement system, the school district, the board of education, and the board of trustees related to the administration and operation of the retirement system to determine compliance with all state and federal laws. The compliance audit shall also include, but not be limited to, an examination and evaluation of:

(a) Eligibility and enrollment to ensure eligible individuals are properly and timely enrolled in the plan;

(b) Contributions, compensation, service hours, and other records to ensure that members are making the correct contributions, that only eligible compensation and eligible service hours are reported at the time and in the manner specified in plan documents, and that only the authorized interest is being recorded;

(c) Termination of employment to ensure that only terminated members are taking distributions from the plan at the time and in the manner specified in the plan documents;

(d) Reemployment after retirement to ensure that retirees and members who have terminated employment who reemploy have complied with plan documents;

(e) Benefit calculations and benefit payments to ensure that the correct benefits are calculated for members and paid on a timely basis; and

(f) Disability retirements to ensure:

(i) The determination of the member's disability status and any accrual of additional disability benefits due to deferred distribution of such benefits are conducted in accordance with the act; and

(ii) The amount of the disability retirement benefits is correctly calculated for members and paid on a timely basis.

(4) The examination of each of the issues listed in subsection (3) of this section shall also include, but not be limited to, a review of:

(a) The plan documents and training that the retirement system has provided to the staff of the retirement system and employees who provide services to the retirement system to ensure proper compliance with the procedures and processes;

(b) Oversight practices or processes used by the board of trustees and administrator of the retirement system to identify whether the employer properly followed the plan documents; and

(c) Practices and processes used by the board of trustees and administrator of the retirement system to correct any errors made.

(5) The board of trustees, the board of education, the school district, and the retirement system shall provide:

(a) The compliance auditors with the documents identified in this section and access to personnel who perform or have knowledge of duties related to the practices, procedures, operations, and administration of the retirement system to facilitate timely completion of the compliance audit; and

(b) The Auditor of Public Accounts with documents and access to personnel as requested by the auditor to facilitate timely completion of the audit required by subsection (1)(b) of section 79-987.

(6) Expenses related to obtaining the compliance audit shall be charged to the retirement system.

(7) The board of trustees shall submit an electronic copy of the compliance audit report to the Clerk of the Legislature, the board of education, the Nebraska Retirement Systems Committee of the Legislature, the Governor, and the retirement board no later than November 15, 2021. The compliance audit report shall be presented to the Nebraska Retirement Systems Committee of the Legislature at a public hearing.

(8)(a) The Public Employees Retirement Board shall identify and examine additional issues which have emerged since the completion of the work plan conducted pursuant to section 79-9,121. Such identification and examination shall include, but are not limited to, issues related to the transition and transfer of management of any Class V school employees retirement system to the retirement board and the board's duties to administer such retirement system pursuant to section 84-1503 in a manner which will maintain the transferred retirement system plan's status as a qualified plan and address any concerns in meeting the retirement board's fiduciary duties and responsibilities pursuant to section 84-1503.02.

(b) The retirement board may retain the services of consultants, if necessary, to carry out its responsibilities under this subsection.

(c) The retirement board shall timely respond to any written communications from the Nebraska Retirement Systems Committee of the Legislature regarding its ongoing examinations under this subsection and advise the committee if additional areas of examination related to the transfer of management as required under this section should be addressed.

(d) The retirement board may bill an employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act on a monthly basis as provided in section 79-9,123 for all



services and related expenses incurred in carrying out its responsibilities under this section.

**Source:** Laws 2021, LB147, § 43.

## ARTICLE 10 SCHOOL TAXATION, FINANCE, AND FACILITIES

### Cross References

**Constitutional provisions:**

Diversion of education funds, prohibited, see Article VII, section 8, Constitution of Nebraska.  
 Early childhood education endowment fund, see Article VII, section 9, Constitution of Nebraska.  
 Escheats and forfeitures, see Article VII, section 7, Constitution of Nebraska.  
 Fines, penalties, and license money, except overloading of motor vehicles, see Article VII, section 5, Constitution of Nebraska.  
 Funds, how invested, see Article VII, section 8, Constitution of Nebraska.  
 Gifts to state, not otherwise designated, see Article VII, section 9, Constitution of Nebraska.  
 Motor vehicle tax, apportionment, see Article VIII, section 1, Constitution of Nebraska.  
 Perpetual funds enumerated, see Article VII, section 7, Constitution of Nebraska.  
 Rents from school lands, see Article VII, section 9, Constitution of Nebraska.

**Antitrust recovery**, distribution, see section 84-212.

**Bids**, construction or repair of buildings, see section 73-106.

**Bonds**, generally, see Chapter 10.

**Budgets**, applicability of Nebraska Budget Act, see section 13-517.

**County school funds:**

Artisan's lien, excess funds from sale, when, see section 52-604.  
 Branded animals, estrays, proceeds of sale, see section 54-415.  
 Debts due county, penalty for delinquent payment, see section 23-142.  
 Decedents' estates, unclaimed property, see section 23-1815.  
 Motor vehicle fuels, unlawful transportation, proceeds of sale of vehicle and fine, see section 66-528 et seq.  
 Personal property acquired by Board of Educational Lands and Funds, see section 72-266.  
 Witness fees, unclaimed, see section 33-140.01 et seq.

**County treasurer**, payment of school funds, see section 23-1601.

**Depositories**, see Chapter 77, article 23.

**Eminent domain for pipelines**, school lands, see section 57-1105.

**Federal funds, services, and commodities**, assistance in securing, see section 81-910 et seq.

**Health and Human Services, Department of**, reimbursement from school districts, see section 83-121.

**Insurance Tax Fund**, distribution, see section 77-913.

**Invention development services claim**, judgment, disbursement, see section 87-607.

**Levy limitations**, see section 77-3442 et seq.

**Local Government Miscellaneous Expenditure Act**, see section 13-2201.

**Medicaid funds**, access for special education, see section 43-2511.

**Motor vehicle taxes**, see section 60-3,184 et seq.

**Nebraska Budget Act**, see section 13-501.

**NIFA funding**, hazard and barrier removal, see section 58-201 et seq.

**Oil and gas leases**, authorization for other than school lands, see section 57-218.

**Permanent school fund**, see section 79-1035.01.

**Reclamation district**, dissolution, distribution of remaining assets, see section 46-541.

**Retirement expenditures**, effect, see section 79-977.

**School District Reimbursement Fund**, see section 83-121.

**School lands and funds**, see Chapter 72.

**Schoolhouses**, contractor, bond, see section 52-118.

**Severance tax**, distribution, see section 57-705.

**Sinking funds:**

Investment in warrants, authorized, see section 77-2338.  
 Investment of, see section 77-2341.

**State lottery funds for education**, see section 79-3501.

**Temporary school fund:**

Alcoholic liquor, fees, fines, see sections 53-138.01 and 53-1,104.  
 Cherry County school land, proceeds of sale and rental, see section 72-267 et seq.  
 Defined, use, see section 79-1035.02.  
 Fuels, unlawful sale or transportation, judgment proceeds, see section 66-528 et seq.  
 Mineral royalties, see section 72-312.  
 Saline lands, rentals, see section 72-502.

**Uncertificated teacher or administrator employed by district**, school money withheld, see section 79-804.

**Unclaimed property**, proceeds of sale, see section 69-1317.

**Vocational education interdistrict agreement**, tax levy, see section 79-747.

**Warrants**, registered and paid in order, see Chapter 77, article 22.

### (a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

Section

79-1001. Act, how cited.  
 79-1002. Legislative intent.

## SCHOOLS

Section	
79-1003.	Terms, defined.
79-1003.01.	Summer school allowance; summer school student units; calculations.
79-1004.	Repealed. Laws 2017, LB512, § 41.
79-1005.	Community achievement plan aid; new community achievement plan adjustment; calculation.
79-1005.01.	Tax Commissioner; certify data; department; calculate allocation percentage and local system's allocated income tax funds.
79-1005.02.	Repealed. Laws 2011, LB 235, § 26.
79-1006.	Foundation aid; calculation.
79-1007.	Repealed. Laws 1998, Spec. Sess., LB 1, § 63.
79-1007.01.	Repealed. Laws 2011, LB 235, § 26.
79-1007.02.	Repealed. Laws 2011, LB 235, § 26.
79-1007.03.	Repealed. Laws 2008, LB 988, § 56.
79-1007.04.	Repealed. Laws 2019, LB675, § 57.
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### (a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

#### **79-1001 Act, how cited.**

Sections 79-1001 to 79-1033 shall be known and may be cited as the Tax Equity and Educational Opportunities Support Act.

**Source:** Laws 1990, LB 1059, § 1; Laws 1995, LB 542, § 1; Laws 1995, LB 840, § 3; R.S.Supp.,1995, § 79-3801; Laws 1996, LB 900,

§ 652; Laws 1996, LB 1050, § 10; Laws 1997, LB 806, § 29; Laws 1998, LB 1134, § 1; Laws 1998, LB 1219, § 13; Laws 1999, LB 149, § 1; Laws 2001, LB 833, § 3; Laws 2002, LB 898, § 2; Laws 2004, LB 1091, § 8; Laws 2006, LB 1024, § 71; Laws 2007, LB641, § 12; Laws 2008, LB988, § 8; Laws 2009, LB545, § 3; Laws 2009, First Spec. Sess., LB5, § 2; Laws 2011, LB18, § 1; Laws 2011, LB235, § 4; Laws 2015, LB519, § 10; Laws 2016, LB1067, § 31; Laws 2023, LB583, § 1.

**79-1002 Legislative intent.**

It is the intent, purpose, and goal of the Legislature to create a system of financing the public school system which will:

- (1) Provide state support from all sources of state funding sufficient to support the statewide aggregate general fund operating expenditures for Nebraska elementary and secondary public education that cannot be met by local resources;
- (2) Reduce the reliance on the property tax for the support of the public school system;
- (3) Broaden financial support for the public school system by dedicating a portion of the revenue received from the state income tax for support of the system;
- (4) Keep pace with the increasing cost of operating the public school system;
- (5) Assure a foundation support level for the operation of the public school system, taking local resources into consideration;
- (6) Recognize a portion of the costs of programs to address the unique educational needs of students who are in poverty or who have limited English proficiency as being specific to the local system providing such programs;
- (7) Create a process to collect information regarding the programs and the cost of the programs provided to address the unique educational needs of students who are in poverty or who have limited English proficiency in order to analyze which programs may be appropriate to receive state support and to analyze the poverty and limited English proficiency allowances;
- (8) Assure a greater level of equity of educational opportunities for all public school students;
- (9) Assure a greater level of equity in property tax rates for the support of the public school system; and
- (10) Assure measured growth in the state aid appropriation through the continuation of limits on the growth of general fund budgets of districts.

**Source:** Laws 1990, LB 1059, § 2; R.S.1943, (1994), § 79-3802; Laws 1996, LB 900, § 653; Laws 1996, LB 1050, § 11; Laws 1997, LB 806, § 30; Laws 2006, LB 1024, § 72.

**79-1003 Terms, defined.**

For purposes of the Tax Equity and Educational Opportunities Support Act:

- (1) Adjusted general fund operating expenditures means the difference of the general fund operating expenditures increased by the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency al-

lowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, community achievement plan allowance, and focus school and program 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;

(4) 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;

(5) Base fiscal year means the first school fiscal year following the school fiscal year in which the reorganization or unification occurred;

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

(7) 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 career and technical education funds, federal school lunch funds, Indian education funds, Head Start funds, and funds received prior to July 1, 2022, from the Nebraska Education Improvement Fund;

(8) 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;

(9) Converted contract means an expired contract that was in effect for at least fifteen school years beginning prior to school year 2012-13 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;

(10) Converted contract option student means a student who will be an option student 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;

(11) Department means the State Department of Education;

(12) District means any school district or unified system as defined in section 79-4,108;

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



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

(15) 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;

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

(17) Formula students means:

(a) For state aid certified pursuant to section 79-1022, the sum of the product 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 the aid is to be paid and the prior two school fiscal years plus sixty percent of the qualified early childhood education fall membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which aid is to be paid minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the fall membership multiplied by 0.5; and

(b) For the final calculation of state aid pursuant to section 79-1065, the sum of average daily membership plus sixty percent of the qualified early childhood education average daily membership plus tuitioned students minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the average daily membership multiplied by 0.5 from the school fiscal year immediately preceding the school fiscal year in which aid was paid;

(18) Free lunch and free milk calculated students means, using 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, (a) for schools that did not provide free meals to all students pursuant to the community eligibility provision, students who individually qualified for free lunches or free milk pursuant to the federal Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq., and the federal Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq., as such acts and sections existed on January 1, 2021, and rules and regulations adopted thereunder, plus (b) for schools that provided free meals to all students pursuant to the community eligibility provision, the greater of the number of students in such school who individually qualified for free lunch or free milk using the most recent school fiscal year for which the school did not provide free meals to all students pursuant to the community eligibility provision or one hundred ten percent of the product of the students who qualified for free meals at such school pursuant to the community eligibility provision multiplied by the identified student percentage calculated pursuant to such federal provision, except that the free lunch and free milk calculated students for any school pursuant to subdivision (18)(b) of this section shall not exceed one hundred percent of the students qualified for free meals at such school pursuant to the community eligibility provision;

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

(20) 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 general fund budget

of expenditures does not include any special grant funds, exclusive of local matching funds, received by a district;

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

(22) General fund operating expenditures means, for state aid calculated for each school fiscal year, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (a) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, federal impact aid, and levy override elections pursuant to section 77-3444, (b) the amount of expenditures for categorical funds, tuition paid to other school districts, tuition paid to postsecondary institutions for college credit, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (c) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, (d) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred, (e) expenditures to pay for incentives agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment for which the State Board of Education approved an exclusion pursuant to subdivision (1)(h), (i), (j), or (k) of section 79-1028.01, (f)(i) expenditures to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Employees Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent or (ii) expenditures to pay for school district contributions pursuant to subdivision (1)(c)(i) or (1)(d)(i) of section 79-9,113 to the retirement system established pursuant to the Class V School Employees Retirement Act to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent, and (g) any amounts paid by the district for lobbyist fees and expenses reported to the Clerk of the Legislature pursuant to section 49-1483.

For purposes of this subdivision (22) of this section, receipts from levy override elections shall equal ninety-nine percent of the difference of the total general fund levy minus a levy of one dollar and five cents per one hundred dollars of taxable valuation multiplied by the assessed valuation for school districts that have voted pursuant to section 77-3444 to override the maximum levy provided pursuant to section 77-3442;

(23) 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;

(24) 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;

(25) Limited English proficiency students means the number of students with limited English proficiency in a district 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 plus the difference of such students with limited English proficiency minus the average number of limited English proficiency students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

(26) Local system means a unified system or a school district;

(27) Low-income child means a child under nineteen years of age living in a household having an annual adjusted gross income for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated equal to or less than the maximum household income pursuant to sections 9(b)(1) and 17(c)(4) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1758(b)(1) and 42 U.S.C. 1766(c)(4), respectively, and sections 3(a)(6) and 4(e)(1)(A) of the Child Nutrition Act of 1966, 42 U.S.C. 1772(a)(6) and 42 U.S.C. 1773(e)(1)(A), respectively, as such acts and sections existed on January 1, 2021, for a household of that size that would have allowed the child to meet the income qualifications for free meals during the school fiscal year immediately preceding the school fiscal year for which aid is being calculated;

(28) Low-income students means the number of low-income children within the district multiplied by the ratio of the formula students in the district divided by the total children under nineteen years of age residing in the district as derived from income tax information;

(29) 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;

(30) Poverty students means the unadjusted poverty students plus the difference of such unadjusted poverty students minus the average number of poverty students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

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

(32) Qualified early childhood education fall membership means the product of membership on October 1 of each school year of students who will be eligible or required to attend kindergarten the following school year and are

enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the planned instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

(33) Regular route transportation means the transportation of students on regularly scheduled daily routes to and from the schools such students attend;

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

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

(36) Sparse local system means a local system that is not a very sparse local system but which meets the following criteria:

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

(b)(i) Less than one and one-half formula students per square mile in the local system and (ii) more than fifteen miles between each high school and the next closest high school on paved roads;

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

(d)(i) Less than two formula students per square mile in the local system and (ii) the local system includes an area equal to ninety-five percent or more of the square miles in the largest county in which a high school is located in the local system;

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

(38) Special grant funds means the budgeted receipts for grants, including, but not limited to, categorical funds, 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;

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

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

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

(42) Statewide average basic funding per formula student means the statewide total basic funding for all districts divided by the statewide total formula students for all districts;

(43) Statewide average general fund operating expenditures per formula student means the statewide total general fund operating expenditures for all districts divided by the statewide total formula students for all districts;

(44) Teacher has the definition found in section 79-101;

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

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

(47) Unadjusted poverty students means the greater of the number of low-income students or the free lunch and free milk calculated students in a district; and

(48) Very sparse local system means a local system that has:

(a)(i) Less than one-half student per square mile in each county in which each high school is located based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than fifteen miles between the high school and the next closest high school on paved roads; or

(b)(i) More than four hundred fifty square miles in the local system, (ii) less than one-half student per square mile in the local system, and (iii) more than fifteen miles between each high school and the next closest high school on paved roads.

**Source:** Laws 1990, LB 1059, § 3; Laws 1991, LB 511, § 71; Laws 1992, LB 245, § 76; Laws 1994, LB 1290, § 3; Laws 1995, LB 840, § 4; R.S.Supp., 1995, § 79-3803; Laws 1996, LB 900, § 654; Laws 1996, LB 1050, § 12; Laws 1997, LB 347, § 29; Laws 1997, LB 710, § 5; Laws 1997, LB 713, § 1; Laws 1997, LB 806, § 31; Laws 1998, LB 306, § 42; Laws 1998, LB 1134, § 2; Laws 1998, LB 1219, § 15; Laws 1998, LB 1229, § 3; Laws 1998, Spec. Sess., LB 1, § 15; Laws 1999, LB 149, § 3; Laws 1999, LB 813, § 19; Laws 2001, LB 313, § 1; Laws 2001, LB 797, § 18; Laws 2001, LB 833, § 4; Laws 2002, LB 898, § 3; Laws 2005, LB 126, § 45; Laws 2005, LB 577, § 1; Laws 2006, LB 1024, § 73; Laws 2006, LB 1208, § 4; Referendum 2006, No. 422; Laws 2007, LB641, § 13; Laws 2008, LB988, § 9; Laws 2009, LB545, § 4; Laws 2009, LB549, § 26; Laws 2009, First Spec. Sess., LB5, § 3; Laws 2010, LB1071, § 12; Laws 2011, LB18, § 2; Laws 2011, LB235, § 5; Laws 2011, LB382, § 5; Laws 2011, LB509, § 38; Laws 2013, LB407, § 2; Laws 2013, LB553, § 15; Laws 2014, LB967, § 11; Laws 2015, LB519, § 12; Laws 2015, LB525, § 17; Laws 2016, LB959, § 2; Laws 2016, LB1066, § 16; Laws 2016, LB1067, § 32; Laws 2017, LB512, § 12; Laws 2018, LB377, § 62; Laws 2018, LB1005, § 33; Laws 2018, LB1081, § 11; Laws 2019, LB675, § 5; Laws 2021, LB528, § 35; Laws 2024, LB71, § 8. Effective date July 19, 2024.

## Cross References

Class V School Employees Retirement Act, see section 79-978.01.

Nebraska Budget Act, see section 13-501.

Nebraska Revenue Act of 1967, see section 77-2701.

**79-1003.01 Summer school allowance; summer school student units; calculations.**

(1) The department shall calculate a summer school allowance for each district which submits the information required for the calculation on a form prescribed by the department on or before October 15 of the school fiscal year preceding the school fiscal year for which aid is being calculated. For aid calculated for school fiscal years through school fiscal year 2013-14, the summer school allowance shall be equal to two and one-half percent of the summer school student units for such district multiplied by eighty-five percent of the statewide average general fund operating expenditures per formula student. For aid calculated for school fiscal year 2014-15 and each school fiscal year thereafter, the summer school allowance shall be equal to the lesser of two and one-half percent of the product of the summer school student units for such district multiplied by eighty-five percent of the statewide average general fund operating expenditures per formula student or the summer school and early childhood summer school expenditures that are paid for with noncategorical funds generated by state or local taxes as reported on the annual financial report for the most recently available data year and that are not included in other allowances.

(2) Summer school student units shall be calculated for each student enrolled in summer school as defined in section 79-536 in a school district who attends such summer school for at least twelve days in the most recently available complete data year, whether or not the student is in the membership of the school district. The initial number of units for each such student shall equal the sum of the ratios, each rounded down to the nearest whole number, of the number of days for which the student attended summer school classes in such district for at least three hours and less than six hours per day divided by twelve days and of two times the number of days for which the student attended summer school classes in such district for six or more hours per day divided by twelve days.

(3) Each school district shall receive an additional summer school student unit for each summer school student unit attributed to remedial math or reading programs. Each school district shall also receive an additional summer school student unit for each summer school student unit attributed to a student who in the school year immediately preceding summer school either (a) qualified for free lunches or free milk and attended a school that uses information collected from parents and guardians to determine such qualifications or (b) attended a school that provides free meals to all students pursuant to the community eligibility provision.

(4) Beginning with state aid calculated for school fiscal year 2012-13, summer school student units shall be calculated for each student who was both enrolled in the most recently available complete data year in a summer session of an early childhood education program for which a qualified early childhood education fall membership greater than zero has been calculated for the school fiscal year for which aid is being calculated and eligible to attend kindergarten in the fall immediately following such summer session. The initial number of units for each such early childhood education student shall equal the sum of the

ratios, each rounded down to the nearest whole number, of the number of days for which the student attended the summer session in such district for at least three hours and less than six hours per day divided by twelve days and of two times the number of days for which the student attended the summer session in such district for six or more hours per day divided by twelve days. The initial summer school student units for early childhood education students shall be multiplied by six-tenths. Instructional hours included in the calculation of the qualified early childhood education fall membership or the qualified early childhood education average daily membership shall not be included in the calculation of the summer school allowance.

(5) Each school district shall receive an additional six-tenths of a summer school student unit for each early childhood education student unit attributed to an early childhood education student who is either qualified for free lunches or free milk based on information collected from parents and guardians to determine such qualifications or is registered to attend a school in the school year immediately following such summer that provides free meals to all students pursuant to the community eligibility provision.

(6) This section does not prevent school districts from requiring and collecting fees for summer school or summer sessions of early childhood education programs, except that summer school student units shall not be calculated for school districts which collect fees for summer school from students who qualify for free or reduced-price lunches under United States Department of Agriculture child nutrition programs or who attended, or are registered to attend, a school in the school year immediately following such summer that provides free meals to all students pursuant to the community eligibility provision.

**Source:** Laws 2007, LB641, § 14; Laws 2008, LB988, § 10; Laws 2010, LB1071, § 13; Laws 2011, LB235, § 6; Laws 2013, LB407, § 3; Laws 2015, LB525, § 18.

**79-1004 Repealed. Laws 2017, LB512, § 41.**

**79-1005 Community achievement plan aid; new community achievement plan adjustment; calculation.**

(1) For school fiscal year 2017-18 and each school fiscal year thereafter, the department shall determine the community achievement plan aid to be paid to each school district that will participate in a community achievement plan approved by the State Board of Education pursuant to section 79-2122 for such school fiscal year. For the first two school fiscal years a school district will participate in such plan, a new community achievement plan adjustment equal to the community achievement aid shall be included in the calculation of formula need for such school district. For all other school fiscal years, a community achievement plan allowance equal to the community achievement aid shall be included in the calculation of formula need for school districts qualifying for community achievement plan aid. Community achievement plan aid shall be included as a formula resource pursuant to section 79-1017.01.

(2) Community achievement plan aid shall equal 0.4643 percent of the product of the statewide average general fund operating expenditures per formula student multiplied by the total formula students for all of the member school districts in such learning community. The community achievement plan aid for each learning community shall be divided proportionally among the member school districts based on the sum of two percent of the poverty

allowance calculated pursuant to section 79-1007.06, two percent of the limited English proficiency allowance calculated pursuant to section 79-1007.08, and, for school districts with poverty students greater than forty percent of the formula students, except as otherwise provided in this section, three percent of the product of the statewide average general fund operating expenditures per formula student multiplied by the difference of the poverty students minus forty percent of the formula students for such school district.

(3) For school fiscal year 2017-18, community achievement plan aid and a new community achievement plan adjustment shall be calculated for school districts that are members of a learning community and shall be included in formula resources pursuant to section 79-1017.01 in such amount regardless of the status of the approval of a community achievement plan, but community achievement plan aid shall not be paid to such school districts until a community achievement plan for such learning community is approved by the state board. If a community achievement plan is not approved for such learning community prior to September 1, 2017, the adjustment and aid calculated pursuant to this section shall be removed for the final calculation of state aid pursuant to section 79-1065 for school fiscal year 2017-18 and such amount shall be subtracted from the state aid appropriated by the Legislature for the determination of the local effort rate pursuant to section 79-1015.01 for the final calculation of state aid for school fiscal year 2017-18.

**Source:** Laws 2016, LB1067, § 33.

**79-1005.01 Tax Commissioner; certify data; department; calculate allocation percentage and local system's allocated income tax funds.**

(1) Not later than November 15 of each year, the Tax Commissioner shall certify to the department for the preceding tax year the income tax liability of resident individuals for each local system.

(2) For school fiscal years prior to 2017-18, one hundred two million two hundred eighty-nine thousand eight hundred seventeen dollars which is equal to the amount appropriated to the School District Income Tax Fund for distribution in school fiscal year 1992-93 shall be disbursed as option payments as determined under section 79-1009 and as allocated income tax funds as determined in this section and sections 79-1008.01, 79-1015.01, 79-1017.01, and 79-1018.01. For school fiscal years prior to school fiscal year 2017-18, funds not distributed as allocated income tax funds due to minimum levy adjustments shall not increase the amount available to local systems for distribution as allocated income tax funds.

(3) Using the data certified by the Tax Commissioner pursuant to subsection (1) of this section, the department shall calculate the allocation percentage and each local system's allocated income tax funds. The allocation percentage shall be the amount stated in subsection (2) of this section minus the total amount paid for option students pursuant to section 79-1009, with the difference divided by the aggregate statewide income tax liability of all resident individuals certified pursuant to subsection (1) of this section. Each local system's allocated income tax funds shall be calculated by multiplying the allocation percentage times the local system's income tax liability certified pursuant to subsection (1) of this section.

(4) For school fiscal year 2017-18 and each school fiscal year thereafter, each local system's allocated income tax funds shall be calculated by multiplying the



local system's income tax liability certified pursuant to subsection (1) of this section by two and twenty-three hundredths percent.

**Source:** Laws 1997, LB 806, § 33; Laws 1998, Spec. Sess., LB 1, § 16; Laws 1999, LB 149, § 4; Laws 2002, LB 898, § 4; Laws 2004, LB 1093, § 2; Laws 2008, LB988, § 11; Laws 2009, First Spec. Sess., LB5, § 4; Laws 2011, LB235, § 7; Laws 2016, LB959, § 3; Laws 2016, LB1066, § 17; Laws 2016, LB1067, § 34; Laws 2019, LB675, § 6.

**79-1005.02 Repealed. Laws 2011, LB 235, § 26.**

**79-1006 Foundation aid; calculation.**

(1) For school fiscal year 2023-24 and each school fiscal year thereafter, the department shall determine the foundation aid to be paid to each school district in accordance with subsection (2) of this section.

(2) The foundation aid to be paid to each school district in each school fiscal year shall equal one thousand five hundred dollars multiplied by the number of formula students for such school district.

(3) Twenty-four percent of the total amount of foundation aid paid each school fiscal year shall be paid from money appropriated from the Education Future Fund.

(4) For school fiscal years 2023-24 and 2024-25, one hundred percent of foundation aid shall be included as a formula resource pursuant to section 79-1017.01. For school fiscal year 2025-26 and each school fiscal year thereafter, sixty percent of foundation aid shall be included as a formula resource pursuant to section 79-1017.01.

**Source:** Laws 2023, LB583, § 3.

**79-1007 Repealed. Laws 1998, Spec. Sess., LB 1, § 63.**

**79-1007.01 Repealed. Laws 2011, LB 235, § 26.**

**79-1007.02 Repealed. Laws 2011, LB 235, § 26.**

**79-1007.03 Repealed. Laws 2008, LB 988, § 56.**

**79-1007.04 Repealed. Laws 2019, LB675, § 57.**

**79-1007.05 Focus school and program allowance; calculation.**

For school fiscal year 2008-09 and each school fiscal year thereafter, the department shall determine the focus school and program allowance for each school district in a learning community which submits the information required for the calculation on a form prescribed by the department on or before October 15 of the school fiscal year preceding the school fiscal year for which aid is being calculated. Such form may require confirmation from a learning community official that the focus school or program has been approved by the learning community coordinating council for the school fiscal year for which the allowance is being calculated. The focus school and program allowance for each school district in a learning community shall equal the sum of the allowances calculated pursuant to this section for each focus school and focus program operated by the school district for the school fiscal year for which aid is being calculated.

For the school fiscal year containing the majority of the first school year that a school or program will be in operation as a focus school or program approved by the learning community and meeting the requirements of section 79-769, the focus school and program allowance for such focus school or program shall equal the statewide average general fund operating expenditures per formula student multiplied by 0.10 then multiplied by the estimated number of students who will be participating in the focus school or program as reported on the form required pursuant to this section.

For the school fiscal year containing the majority of the second school year that a school or program will be in operation as a focus school or program approved by the learning community and meeting the requirements of section 79-769, the focus school and program allowance for such focus school or program shall equal the statewide average general fund operating expenditures per formula student multiplied by 0.10 then multiplied by (1) for state aid certified pursuant to section 79-1022, the difference of the product of two multiplied by the number of students participating in the focus school or program as reported on the fall membership report from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid minus the estimated number of students used in the certification of state aid pursuant to section 79-1022 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and (2) for the final calculation of state aid pursuant to section 79-1065, the difference of the product of two multiplied by the number of students participating in the focus school or program as reported on the annual statistical summary report from the school fiscal year immediately preceding the school fiscal year in which the aid was paid minus the estimated number of students used in the final calculation of state aid pursuant to section 79-1065 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid.

For the school fiscal year containing the majority of the third school year that a school or program will be in operation as a focus school or program approved by the learning community and meeting the requirements of section 79-769 and each school fiscal year thereafter, the focus school and program allowance for such focus school or program shall equal the statewide average general fund operating expenditures per formula student multiplied by 0.10 then multiplied by the number of students participating in the focus school or program as reported on the fall membership report from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid for state aid certified pursuant to section 79-1022 and as reported on the annual statistical summary report from the school fiscal year immediately preceding the school fiscal year in which the aid was paid for the final calculation of state aid pursuant to section 79-1065.

**Source:** Laws 2006, LB 1024, § 78; Laws 2007, LB641, § 18; Laws 2010, LB1070, § 7; Laws 2010, LB1071, § 15.

#### **79-1007.06 Poverty allowance; calculation.**

(1) For each school fiscal year, the department shall determine the poverty allowance for each school district that meets the requirements of this section and section 79-1007.07. Each school district shall designate a maximum poverty allowance on a form prescribed by the department on or before October 15 of the school fiscal year immediately preceding the school fiscal year for which

aid is being calculated. The school district may decline to participate in the poverty allowance by providing the department with a maximum poverty allowance of zero dollars on such form on or before October 15 of the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

(2) The poverty allowance for each school district shall equal the lesser of:

(a) The maximum amount designated pursuant to subsection (1) of this section by the school district in the local system, if such school district designated a maximum amount, for the school fiscal year for which aid is being calculated; or

(b) The sum of:

(i) The statewide average general fund operating expenditures per formula student multiplied by 0.0375 then multiplied by the poverty students comprising more than five percent and not more than ten percent of the formula students in the school district; plus

(ii) The statewide average general fund operating expenditures per formula student multiplied by 0.0750 then multiplied by the poverty students comprising more than ten percent and not more than fifteen percent of the formula students in the school district; plus

(iii) The statewide average general fund operating expenditures per formula student multiplied by 0.1125 then multiplied by the poverty students comprising more than fifteen percent and not more than twenty percent of the formula students in the school district; plus

(iv) The statewide average general fund operating expenditures per formula student multiplied by 0.1500 then multiplied by the poverty students comprising more than twenty percent and not more than twenty-five percent of the formula students in the school district; plus

(v) The statewide average general fund operating expenditures per formula student multiplied by 0.1875 then multiplied by the poverty students comprising more than twenty-five percent and not more than thirty percent of the formula students in the school district; plus

(vi) The statewide average general fund operating expenditures per formula student multiplied by 0.2250 then multiplied by the poverty students comprising more than thirty percent of the formula students in the school district.

**Source:** Laws 2006, LB 1024, § 79; Laws 2007, LB641, § 19; Laws 2008, LB988, § 28; Laws 2009, LB549, § 27; Laws 2015, LB525, § 19; Laws 2018, LB1081, § 12.

**79-1007.07 Financial reports relating to poverty allowance; department; duties; powers.**

(1)(a) The annual financial report required pursuant to section 79-528 shall include:

(i) The amount of the poverty allowance used in the certification of state aid pursuant to section 79-1022 for such school fiscal year;

(ii) The amount of federal funds received based on poverty as defined by the federal program providing the funds; and

(iii) The expenditures and sources of funding for each program related to poverty and the expenditures and sources of funding for support costs directly attributable to poverty.

(b) The department shall set up accounting codes for the receipts and expenditures required to be reported on the annual financial report pursuant to this subsection.

(2) The department shall determine the poverty allowance expenditures using the reported expenditures on the annual financial report for the most recently available complete data year that would include in the poverty allowance expenditures only those expenditures that are not included in other allowances, that were used to specifically address issues related to the education of students living in poverty, that do not replace expenditures that would have occurred if the students involved in the program did not live in poverty, and that are paid for with noncategorical funds generated by state or local taxes.

(3) If the poverty allowance expenditures do not equal 117.65 percent or more of the poverty allowance for the most recently available complete data year, the department shall calculate a poverty allowance correction. The poverty allowance correction shall equal the poverty allowance minus eighty-five percent of the poverty allowance expenditures.

(4) The department may request additional information from any school district to assist with calculations and determinations pursuant to this section. If the school district does not provide information upon the request of the department pursuant to this section, the school district shall be disqualified from receiving a poverty allowance for the school fiscal year for which aid is being calculated.

**Source:** Laws 2006, LB 1024, § 80; Laws 2007, LB641, § 20; Laws 2008, LB988, § 29; Laws 2009, LB545, § 5; Laws 2011, LB18, § 3; Laws 2012, LB782, § 158; Laws 2013, LB407, § 4; Laws 2015, LB525, § 20; Laws 2018, LB1081, § 13; Laws 2019, LB675, § 7.

#### **79-1007.08 Limited English proficiency allowance; calculation.**

(1) For each school fiscal year, the department shall determine the limited English proficiency allowance for each school district that meets the requirements of this section. Each school district shall designate a maximum limited English proficiency allowance on or before October 15 of the school fiscal year immediately preceding the school fiscal year for which aid is being calculated. The school district may decline to participate in the limited English proficiency allowance by providing the department with a maximum limited English proficiency allowance of zero dollars on such form on or before October 15 of the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

(2) The limited English proficiency allowance for each school district that has not been disqualified pursuant to section 79-1007.09 shall equal the lesser of:

(a) The amount designated pursuant to subsection (1) of this section by the school district, if such school district designated a maximum amount, for the school fiscal year for which aid is being calculated; or

(b) The statewide average general fund operating expenditures per formula student multiplied by 0.25 then multiplied by:

(i) The number of students in the school district who are limited English proficient as defined under 20 U.S.C. 7801, as such section existed on January 1, 2006, if such number is greater than or equal to twelve;

(ii) Twelve, if the number of students in the school district who are limited English proficient as defined under 20 U.S.C. 7801, as such section existed on January 1, 2006, is greater than or equal to one and less than twelve; or

(iii) Zero, if the number of students in the school district who are limited English proficient as defined under 20 U.S.C. 7801, as such section existed on January 1, 2006, is less than one.

**Source:** Laws 2006, LB 1024, § 81; Laws 2007, LB641, § 21; Laws 2008, LB988, § 30; Laws 2009, LB549, § 28; Laws 2018, LB1081, § 14.

**79-1007.09 Financial reports relating to limited English proficiency; department; duties; powers.**

(1)(a) The annual financial report required pursuant to section 79-528 shall include:

(i) The amount of the limited English proficiency allowance used in the certification of state aid pursuant to section 79-1022 for such school fiscal year;

(ii) The amount of federal funds received based on students who are limited English proficient as defined by the federal program providing the funds; and

(iii) The expenditures and sources of funding for each program related to limited English proficiency and the expenditures and sources of funding for support costs directly attributable to limited English proficiency.

(b) The department shall set up accounting codes for the receipts and expenditures required to be reported on the annual financial report pursuant to this subsection.

(2) The department shall determine the limited English proficiency allowance expenditures using the reported expenditures on the annual financial report for the most recently available complete data year that would only include in the limited English proficiency allowance expenditures those expenditures that are not included in other allowances, that were used to specifically address issues related to the education of students with limited English proficiency, that do not replace expenditures that would have occurred if the students involved in the program did not have limited English proficiency, and that are paid for with noncategorical funds generated by state or local taxes.

(3) If the limited English proficiency allowance expenditures do not equal 117.65 percent or more of the limited English proficiency allowance for the most recently available complete data year, the department shall calculate a limited English proficiency allowance correction. The limited English proficiency allowance correction shall equal the limited English proficiency allowance minus eighty-five percent of the limited English proficiency allowance expenditures. If the limited English proficiency allowance expenditures do not equal fifty percent or more of the allowance for such school fiscal year, the school district shall also be disqualified from receiving a limited English proficiency allowance for the school fiscal year for which aid is being calculated.

(4) The department may request additional information from any school district to assist with calculations and determinations pursuant to this section. If the school district does not provide information upon the request of the department pursuant to this section, the school district shall be disqualified

from receiving a limited English proficiency allowance for the school fiscal year for which aid is being calculated.

**Source:** Laws 2006, LB 1024, § 82; Laws 2007, LB641, § 22; Laws 2008, LB988, § 31; Laws 2009, LB545, § 6; Laws 2011, LB18, § 4; Laws 2013, LB407, § 5; Laws 2018, LB1081, § 15; Laws 2019, LB675, § 8.

**79-1007.10 Cost growth factor; computation.**

(1) For state aid calculated for all school fiscal years except school fiscal year 2010-11, the cost growth factor shall equal the sum of: (a) The basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus (b) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be distributed.

(2) For state aid calculated for school fiscal year 2010-11, the cost growth factor shall equal the sum of: (i) One; plus (ii) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus (iii) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be distributed; plus (iv) two percent.

**Source:** Laws 2006, LB 1024, § 83; Laws 2007, LB21, § 2; Laws 2008, LB988, § 32; Laws 2009, LB545, § 7; Laws 2011, LB235, § 8.

**79-1007.11 School district formula need; calculation.**

(1) Except as otherwise provided in this section, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, distance education and telecommunications allowance, community achievement plan allowance, averaging adjustment, new community achievement plan adjustment, student growth adjustment, any positive student growth adjustment correction, and new school adjustment minus the sum of the limited English proficiency allowance correction, poverty allowance correction, and any negative student growth adjustment correction.

(2) If the formula need calculated for a school district pursuant to subsection (1) of this section is less than one hundred percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, the formula need for such district shall equal one hundred percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

(3) If the formula need calculated for a school district pursuant to subsection (1) of this section is more than one hundred twelve percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, the formula need for such district shall equal one hundred twelve percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, except that the formula need shall not be reduced

pursuant to this subsection for any district receiving a student growth adjustment for the school fiscal year for which aid is being calculated.

(4) For purposes of subsections (2) and (3) of this section, the formula need for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated shall be the formula need used in the final calculation of aid pursuant to section 79-1065 and for districts that were affected by a reorganization with an effective date in the calendar year preceding the calendar year in which aid is certified for the school fiscal year for which aid is being calculated, the formula need for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated shall be attributed to the affected school districts based on information provided to the department by the school districts or proportionally based on the adjusted valuation transferred if sufficient information has not been provided to the department.

**Source:** Laws 2008, LB988, § 13; Laws 2008, LB1153, § 7; Laws 2009, LB545, § 8; Laws 2009, First Spec. Sess., LB5, § 5; Laws 2011, LB235, § 9; Laws 2013, LB407, § 6; Laws 2014, LB967, § 12; Laws 2015, LB519, § 13; Laws 2016, LB1067, § 35; Laws 2017, LB512, § 13; Laws 2021, LB528, § 36.

#### **79-1007.12 Transportation allowance; calculation.**

The department shall calculate a transportation allowance for each district equal to the lesser of:

(1) 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

(2) 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.

**Source:** Laws 2008, LB988, § 14.

#### **79-1007.13 Special receipts allowance; calculation.**

The department shall calculate a special receipts allowance for each district equal to the amount of special education, state ward, and accelerated or differentiated curriculum program receipts included in local system formula resources under subdivisions (7), (8), (15), and (16) of section 79-1018.01 attributable to the school district.

**Source:** Laws 2008, LB988, § 15; Laws 2016, LB1067, § 36.

#### **79-1007.14 Distance education and telecommunications allowance; calculation.**

The department shall calculate a distance education and telecommunications allowance for each school district equal to eighty-five percent of the difference of the costs for (1) telecommunications services, (2) access to data transmission networks that transmit data to and from the school district, and (3) the transmission of data on such networks paid by the school districts in the local system as reported on the annual financial report for the most recently available complete data year minus the receipts from the federal Universal Service Fund pursuant to section 254 of the Telecommunications Act of 1996, 47 U.S.C. 254, as such section existed on January 1, 2008, for the school districts in the local system as reported on the annual financial report for the most recently available complete data year.

**Source:** Laws 2008, LB988, § 16.

**79-1007.15 Elementary site allowance; calculation.**

(1) For school fiscal year 2008-09, the department shall calculate an elementary site allowance for any district in which (a) the district has more than one elementary attendance site, (b) at least one of the elementary attendance sites does not offer any other grades, (c) the square miles in the district divided by the number of elementary attendance sites in the district equals one hundred square miles or more per elementary attendance site, and (d) the fall membership in elementary site grades in the district divided by the number of elementary site grades then divided again by the number of elementary attendance sites equals fifteen or fewer students per grade per elementary attendance site. Qualifying elementary attendance sites for such districts shall only offer elementary site grades and shall have an average of fifteen or fewer students per grade in the fall membership.

(2) For school fiscal year 2009-10 and each school fiscal year thereafter, the department shall calculate an elementary site allowance for any district which has at least one qualifying elementary attendance site and which submits the information required for the calculation on a form prescribed by the department on or before October 15 of the school fiscal year preceding the school fiscal year for which aid is being calculated. A qualifying elementary attendance site shall be an elementary attendance site, in a district with multiple elementary attendance sites, which does not have another elementary attendance site within seven miles in the same school district or which is the only public elementary attendance site located in an incorporated city or village.

(3) The elementary site allowance for each qualifying district shall equal the sum of the elementary site allowances for each qualifying elementary attendance site in the district. The elementary site allowance for each qualifying elementary attendance site shall equal five hundred percent of the statewide average general fund operating expenditures per formula student multiplied by the result of rounding the ratio of the fall membership attributed to the elementary attendance site divided by eight up to the next whole number if the result was not a whole number, except that if the resulting whole number is greater than the number of elementary site grades, the whole number shall be reduced to equal the number of elementary site grades.

(4) For purposes of this section:

(a) Each district shall determine which grades are considered elementary site grades, except that (i) all grades designated as elementary site grades shall be offered in each elementary attendance site in the district, without any prefer-



ence indicated by the school board or any school district administrator for students to attend different elementary attendance sites depending on their elementary site grade level, for the school fiscal year for which aid is being calculated and for each of the five school fiscal years preceding the school fiscal year for which aid is being calculated and (ii) elementary site grades shall not include grades nine, ten, eleven, or twelve;

(b) An elementary attendance site is an attendance site in which elementary site grades are offered;

(c) The primary elementary site shall be the elementary attendance site to which the most formula students are attributed in the district and shall not be a qualifying elementary attendance site; and

(d) Fall membership means the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

(5) If the elementary attendance site is new or is being reopened after being closed for at least one school year, the requirements of subdivision (4)(a)(i) of this section with respect to preceding school fiscal years shall not apply to school fiscal years in which the elementary attendance site was not in operation.

(6) The department shall determine if the qualifications for the elementary site allowance have been met for each elementary attendance site for which information has been submitted. The department may rely on the information submitted and any other information available to the department, including, but not limited to, past attendance patterns. The state board shall establish a procedure for appeal of decisions of the department to the state board for a final determination.

**Source:** Laws 2008, LB988, § 17; Laws 2009, First Spec. Sess., LB5, § 6.

**79-1007.16 Basic funding; calculation.**

(1) The department shall calculate basic funding for each district as provided in this section.

(2) For state aid calculated for school fiscal years prior to school fiscal year 2011-12:

(a) A comparison group shall be established for each district consisting of the districts for which basic funding is being calculated, the five larger districts that are closest in size to the district for which basic funding is being calculated as measured by formula students, and the five smaller districts that are closest in size to the district for which basic funding is being calculated as measured by formula students. If there are not five districts that are larger than the district for which basic funding is being calculated or if there are not five districts that are smaller than the district for which basic funding is being calculated, the comparison group shall consist of only as many districts as fit the criteria. If more than one district has exactly the same number of formula students as the largest or smallest district in the comparison group, all of the districts with exactly the same number of formula students as the largest or smallest districts in the comparison group shall be included in the comparison group. If one or more districts have exactly the same number of formula students as the district for which basic funding is being calculated, all such districts shall be included in the comparison group in addition to the five larger districts and the five

smaller districts. The comparison group shall remain the same for the final calculation of aid pursuant to section 79-1065;

(b) For districts with nine hundred or more formula students, basic funding shall equal the formula students multiplied by the average of the adjusted general fund operating expenditures per formula student for each district in the comparison group, excluding both the district with the highest adjusted general fund operating expenditures per formula student and the district with the lowest adjusted general fund operating expenditures per formula student of the districts in the comparison group; and

(c) For districts with fewer than nine hundred formula students, basic funding shall equal the product of the average of the adjusted general fund operating expenditures for each district in the comparison group, excluding both the district with the highest adjusted general fund operating expenditures and the district with the lowest adjusted general fund operating expenditures of the districts in the comparison group.

(3) For state aid calculated for school fiscal year 2011-12 and each school fiscal year thereafter:

(a) A comparison group shall be established for each district consisting of the districts for which basic funding is being calculated, the ten larger districts that are closest in size to the district for which basic funding is being calculated as measured by formula students, and the ten smaller districts that are closest in size to the district for which basic funding is being calculated as measured by formula students. If there are not ten districts that are larger than the district for which basic funding is being calculated or if there are not ten districts that are smaller than the district for which basic funding is being calculated, the comparison group shall consist of only as many districts as fit the criteria. If more than one district has exactly the same number of formula students as the largest or smallest district in the comparison group, all of the districts with exactly the same number of formula students as the largest or smallest districts in the comparison group shall be included in the comparison group. If one or more districts have exactly the same number of formula students as the district for which basic funding is being calculated, all such districts shall be included in the comparison group in addition to the ten larger districts and the ten smaller districts. The comparison group shall remain the same for the final calculation of aid pursuant to section 79-1065;

(b) For districts with nine hundred or more formula students, basic funding shall equal the formula students multiplied by the average of the adjusted general fund operating expenditures per formula student for each district in the comparison group, excluding both the two districts with the highest adjusted general fund operating expenditures per formula student and the two districts with the lowest adjusted general fund operating expenditures per formula student of the districts in the comparison group; and

(c) For districts with fewer than nine hundred formula students, basic funding shall equal the product of the average of the adjusted general fund operating expenditures for each district in the comparison group, excluding both the two districts with the highest adjusted general fund operating expenditures and the two districts with the lowest adjusted general fund operating expenditures of the districts in the comparison group.

**Source:** Laws 2008, LB988, § 18; Laws 2009, LB549, § 29; Laws 2011, LB235, § 10.

**79-1007.17 Repealed. Laws 2019, LB675, § 57.****79-1007.18 Averaging adjustment; calculation.**

(1) For school fiscal years prior to school fiscal year 2017-18:

(a) The department shall calculate an averaging adjustment for districts if the basic funding per formula student is less than the averaging adjustment threshold and the general fund levy for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated was at least one dollar per one hundred dollars of taxable valuation. For the calculation of aid for school fiscal years prior to school fiscal year 2018-19, the general fund levy for school districts that are members of a learning community for purposes of this section includes both the common general fund levy and the school district general fund levy authorized pursuant to subdivisions (2)(b) and (2)(c) of section 77-3442. The averaging adjustment shall equal the district's formula students multiplied by the percentage specified in this subsection for such district of the difference between the averaging adjustment threshold minus such district's basic funding per formula student;

(b) The averaging adjustment threshold shall equal the aggregate basic funding for all districts with nine hundred or more formula students divided by the aggregate formula students for all districts with nine hundred or more formula students for the school fiscal year for which aid is being calculated; and

(c) The percentage to be used in the calculation of an averaging adjustment shall be based on the general fund levy for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated and shall be as follows:

(i) If such levy was at least one dollar per one hundred dollars of taxable valuation but less than one dollar and one cent per one hundred dollars of taxable valuation, the percentage shall be fifty percent;

(ii) If such levy was at least one dollar and one cent per one hundred dollars of taxable valuation but less than one dollar and two cents per one hundred dollars of taxable valuation, the percentage shall be sixty percent;

(iii) If such levy was at least one dollar and two cents per one hundred dollars of taxable valuation but less than one dollar and three cents per one hundred dollars of taxable valuation, the percentage shall be seventy percent;

(iv) If such levy was at least one dollar and three cents per one hundred dollars of taxable valuation but less than one dollar and four cents per one hundred dollars of taxable valuation, the percentage shall be eighty percent; and

(v) If such levy was at least one dollar and four cents per one hundred dollars of taxable valuation, the percentage shall be ninety percent.

(2) For school fiscal year 2017-18 and each school fiscal year thereafter, the department shall calculate an averaging adjustment for districts with at least nine hundred formula students if the basic funding per formula student is less than the averaging adjustment threshold. The averaging adjustment shall equal the district's formula students multiplied by ninety percent of the difference of the averaging adjustment threshold minus such district's basic funding per formula student. The averaging adjustment threshold shall equal the aggregate basic funding for all districts with nine hundred or more formula students

divided by the aggregate formula students for all districts with nine hundred or more formula students for the school fiscal year for which aid is being calculated.

**Source:** Laws 2008, LB988, § 20; Laws 2009, LB545, § 9; Laws 2011, LB235, § 11; Laws 2013, LB407, § 8; Laws 2016, LB959, § 4; Laws 2016, LB1067, § 37.

**79-1007.19 Repealed. Laws 2011, LB 235, § 26.**

**79-1007.20 Student growth adjustment; school district; application; department; powers.**

(1) School districts may apply to the department for a student growth adjustment, on a form prescribed by the department, on or before October 15 of the school fiscal year immediately preceding the school fiscal year for which aid is being calculated. Such form shall require an estimate of the average daily membership for the school fiscal year for which aid is being calculated, the estimated student growth calculated by subtracting the fall membership of the current school fiscal year from the estimated average daily membership for the school fiscal year for which aid is being calculated, and evidence supporting the estimates. On or before the immediately following December 1, the department shall approve the estimated student growth, approve a modified student growth, or deny the application based on the requirements of this section, the evidence submitted on the application, and any other information provided by the department. The state board shall establish procedures for appeal of decisions of the department to the state board for final determination.

(2) The student growth adjustment for each approved district shall equal the sum of the product of the school district's basic funding per formula student multiplied by the difference of the approved student growth minus the greater of twenty-five students or one percent of the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated plus the product of fifty percent of the school district's basic funding per formula student multiplied by the greater of twenty-five students or one percent of the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

(3) The department shall calculate a student growth adjustment correction for each district that received a student growth adjustment for aid distributed in the most recently available complete data year. Such student growth correction shall equal the product of the difference of the actual student growth for such school fiscal year minus the estimated student growth for such school fiscal year used to calculate the student growth adjustment for such school fiscal year multiplied by the school district's basic funding per formula student used in the final calculation of aid pursuant to section 79-1065 for such school fiscal year, except that the absolute value of a negative correction shall not exceed the original adjustment.

**Source:** Laws 2008, LB988, § 22; Laws 2009, LB549, § 30; Laws 2013, LB410, § 9; Laws 2014, LB725, § 1.

**79-1007.21 Two-year new school adjustment; school district; application; department; powers.**

(1) For school fiscal year 2009-10 and each school fiscal year thereafter, school districts may apply to the department for a two-year new school adjustment, on a form prescribed by the department, on or before October 15 of the school fiscal year immediately preceding the school fiscal year for which the first-year new school adjustment would be included in the calculation of state aid. Such form shall require evidence of recent and expected student growth, evidence that a new building or the expansion or remodeling of an existing building is being completed to provide additional student capacity to accommodate such growth and not to replace an existing building, evidence that the school fiscal year for which the district would receive the first-year adjustment will be the first full school fiscal year for which students will utilize such additional capacity, and evidence of the estimated additional student capacity to be provided by the project. On or before the immediately following December 1, the department shall approve the estimated additional capacity for use in the adjustment, approve a modified estimated additional capacity for use in the adjustment, or deny the application based on the requirements of this section, the evidence submitted on the application, and any other information provided by the department. Each approval shall include an approved estimated additional student capacity for the new building. The state board shall establish procedures for appeal of decisions of the department to the state board for final determination.

(2) The first-year new school adjustment for each approved district shall equal the school district's basic funding per formula student multiplied by twenty percent of the approved estimated additional student capacity. The second-year new school adjustment for each approved district shall equal the school district's basic funding per formula student multiplied by ten percent of the approved estimated additional student capacity.

**Source:** Laws 2008, LB988, § 23; Laws 2009, LB549, § 31.

**79-1007.22 Repealed. Laws 2016, LB1067, § 70.**

**79-1007.23 Repealed. Laws 2019, LB675, § 57.**

**79-1007.24 Repealed. Laws 2011, LB 235, § 26.**

**79-1007.25 Repealed. Laws 2019, LB675, § 57.**

**79-1008 Repealed. Laws 1998, Spec. Sess., LB 1, § 63.**

**79-1008.01 Equalization aid; amount.**

Each local system shall receive equalization aid in the amount that the total formula need, as determined pursuant to section 79-1007.11, exceeds its total formula resources, as determined pursuant to section 79-1017.01. The equalization aid for a local system shall be zero if the total formula resources equals or exceeds the total formula need for such local system.

**Source:** Laws 1997, LB 710, § 11; Laws 1997, LB 806, § 38; Laws 1998, LB 989, § 7; Laws 1998, Spec. Sess., LB 1, § 19; Laws 1999, LB 149, § 6; Laws 2001, LB 797, § 20; Laws 2002, LB 898, § 8; Laws 2003, LB 540, § 4; Laws 2004, LB 1093, § 5; Laws 2006, LB 1024, § 84; Laws 2008, LB988, § 33; Laws 2009, First Spec.

Sess., LB5, § 10; Laws 2011, LB8, § 2; Laws 2011, LB18, § 5; Laws 2011, LB235, § 12; Laws 2016, LB959, § 5; Laws 2019, LB675, § 9.

**79-1008.02 Repealed. Laws 2019, LB675, § 57.**

**79-1009 Option school districts; net option funding; calculation.**

(1)(a) A district shall receive net option funding if (i) option students as defined in section 79-233 were actually enrolled in the school year immediately preceding the school year in which the aid is to be paid, (ii) option students as defined in such section will be enrolled in the school year in which the aid is to be paid as converted contract option students, or (iii) for the calculation of aid for school fiscal year 2017-18 for school districts that are members of a learning community, open enrollment students were actually enrolled for school year 2016-17 pursuant to section 79-2110.

(b) The determination of the net number of option students shall be based on (i) the number of students enrolled in the district as option students and the number of students residing in the district but enrolled in another district as option students as of the day of the fall membership count pursuant to section 79-528, for the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, (ii) the number of option students that will be enrolled in the district or enrolled in another district as converted contract option students for the fiscal year in which the aid is to be paid, and (iii) for the calculation of aid for school fiscal year 2017-18 for school districts that are members of a learning community, the number of students enrolled in the district as open enrollment students and the number of students residing in the district but enrolled in another district as open enrollment students as of the day of the fall membership count pursuant to section 79-528 for school fiscal year 2016-17.

(c) Except as otherwise provided in this subsection, net number of option students means the difference of the number of option students enrolled in the district minus the number of students residing in the district but enrolled in another district as option students. For purposes of the calculation of aid for school fiscal year 2017-18 for school districts that are members of a learning community, net number of option students means the difference of the number of students residing in another school district who are option students or open enrollment students enrolled in the district minus the number of students residing in the district but enrolled in another district as option students or open enrollment students.

(2)(a) For school fiscal years prior to school fiscal year 2023-24, net option funding shall be the product of the net number of option students multiplied by the statewide average basic funding per formula student.

(b) For school fiscal year 2023-24 and each school fiscal year thereafter, net option funding shall be the product of the net number of option students multiplied by the difference of the statewide average basic funding per formula student minus the amount of foundation aid paid per formula student pursuant to section 79-1006.

(3) A district's net option funding shall be zero if the calculation produces a negative result.

Payments made under this section for school fiscal years prior to school fiscal year 2017-18 shall be made from the funds to be disbursed under section 79-1005.01.

Such payments shall go directly to the option school district but shall count as a formula resource for the local system.

**Source:** Laws 1996, LB 1050, § 18; Laws 1997, LB 806, § 40; Laws 1998, Spec. Sess., LB 1, § 21; Laws 1999, LB 813, § 21; Laws 2001, LB 797, § 22; Laws 2001, LB 833, § 5; Laws 2002, LB 898, § 10; Laws 2004, LB 1093, § 6; Laws 2008, LB988, § 35; Laws 2011, LB235, § 14; Laws 2016, LB1067, § 39; Laws 2017, LB409, § 2; Laws 2023, LB583, § 2.

**79-1009.01 Converted contract option students; department; calculations; notice to applicant district.**

For school fiscal years prior to school fiscal year 2027-28, a district which will have converted contract option students shall apply to the department on a form approved by the department within fifteen days after April 27, 2011, for converted contract option students for school fiscal year 2011-12 and on or before November 1 of the calendar year preceding the beginning of all other school fiscal years for which there will be converted contract option students. The department shall determine the amount of tuition receipts from converted contracts to be excluded from the calculation of local system formula resources for each of the first two school fiscal years for which the converted contract will not be in effect and shall determine the number of converted contract option students to be attributed to the receiving district in the calculation of state aid for the first school fiscal year for which the converted contract will not be in effect, and the same number shall be attributed as optioning out of the resident school district. In the final calculation of state aid pursuant to section 79-1065, students that were attributed as optioning into or out of a district shall be replaced with the actual number from fall membership. The department shall notify the applicant district within thirty days after receipt of the completed application.

**Source:** Laws 2011, LB235, § 15.

**79-1010 Repealed. Laws 2011, LB 8, § 4; Laws 2011, LB 235, § 26.**

**79-1010.01 Repealed. Laws 2003, LB 10, § 1; Laws 2003, LB 67, § 34.**

**79-1011 Repealed. Laws 2016, LB1066, § 25.**

**79-1012 Repealed. Laws 2016, LB1066, § 25.**

**79-1013 Repealed. Laws 2018, LB1081, § 28.**

**79-1014 Repealed. Laws 2018, LB1081, § 28.**

**79-1015 Repealed. Laws 2009, LB 545, § 26.**

**79-1015.01 Local system formula resources; local effort rate yield; determination.**

(1) Local system formula resources shall include local effort rate yield which shall be computed as prescribed in this section.

(2) For each school fiscal year except school fiscal years 2017-18 and 2018-19: (a) For state aid certified pursuant to section 79-1022, the local effort rate shall be the maximum levy, for the school fiscal year for which aid is being certified, authorized pursuant to subdivision (2)(a) of section 77-3442 less five cents; (b) for the final calculation of state aid pursuant to section 79-1065, the local effort rate shall be the rate which, when multiplied by the total adjusted valuation of all taxable property in local systems receiving equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act, will produce the amount needed to support the total formula need of such local systems when added to state aid appropriated by the Legislature and other actual receipts of local systems described in section 79-1018.01; and (c) the local effort rate yield for such school fiscal years shall be determined by multiplying each local system's total adjusted valuation by the local effort rate.

(3) For school fiscal years 2017-18 and 2018-19: (a) For state aid certified pursuant to section 79-1022, the local effort rate shall be the maximum levy, for the school fiscal year for which aid is being certified, authorized pursuant to subdivision (2)(a) of section 77-3442 less two and ninety-seven hundredths cents; (b) for the final calculation of state aid pursuant to section 79-1065, the local effort rate shall be the rate which, when multiplied by the total adjusted valuation of all taxable property in local systems receiving equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act, will produce the amount needed to support the total formula need of such local systems when added to state aid appropriated by the Legislature and other actual receipts of local systems described in section 79-1018.01; and (c) the local effort rate yield for such school fiscal years shall be determined by multiplying each local system's total adjusted valuation by the local effort rate.

**Source:** Laws 1997, LB 806, § 45; Laws 1998, Spec. Sess., LB 1, § 23; Laws 1999, LB 149, § 8; Laws 2001, LB 797, § 24; Laws 2007, LB641, § 27; Laws 2008, LB988, § 38; Laws 2011, LB235, § 16; Laws 2013, LB407, § 11; Laws 2014, LB725, § 2; Laws 2017, LB409, § 3.

**79-1016 Adjusted valuation; how established; objections; filing; appeal; notice; correction due to clerical error; injunction prohibited.**

(1) On or before August 20, 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 Tax Commissioner. 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 August 31.

(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. 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 Tax Commissioner shall adopt and promulgate rules and regulations setting forth standards for the determination of level of value for state aid purposes.

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

(a) For real property other than agricultural and horticultural land, ninety-six percent of actual value;

(b) For agricultural and horticultural land, seventy-two 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, seventy-two 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 Tax Commissioner 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 Tax Commissioner 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 Tax Commissioner 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 Tax Commissioner 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 Tax Commissioner 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 Tax Commissioner a written request for a nonappealable correction of the adjusted valuation due to clerical error as defined in section 77-128 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 77-1347.01. On or before the following January 1, the Tax Commissioner 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 May 31 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 Tax Commissioner 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 Tax Commissioner shall require the county assessor to recertify the taxable valuation by school district in the county on forms prescribed by the Tax Commissioner. 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 Tax Commissioner 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.

**Source:** Laws 1990, LB 1059, § 9; Laws 1991, LB 829, § 32; Laws 1991, LB 511, § 76; Laws 1992, LB 245, § 81; Laws 1992, LB 719A, § 198; Laws 1994, LB 1290, § 7; Laws 1995, LB 490, § 185; R.S.Supp.,1995, § 79-3809; Laws 1996, LB 900, § 662; Laws 1996, LB 934, § 5; Laws 1996, LB 1050, § 24; Laws 1997, LB 270, § 103; Laws 1997, LB 271, § 53; Laws 1997, LB 342, § 4; Laws 1997, LB 595, § 6; Laws 1997, LB 713, § 3; Laws 1997, LB 806, § 46; Laws 1998, Spec. Sess., LB 1, § 24; Laws 1999, LB 194, § 34; Laws 1999, LB 813, § 22; Laws 2000, LB 968, § 80; Laws 2001, LB 170, § 28; Laws 2002, LB 994, § 30; Laws 2004, LB 973, § 66; Laws 2005, LB 126, § 46; Laws 2005, LB 263, § 16; Laws 2006, LB 808, § 46; Laws 2006, LB 968, § 16; Referendum 2006, No. 422; Laws 2007, LB334, § 101; Laws 2008, LB988, § 39; Laws 2009, LB166, § 21; Laws 2017, LB217, § 31.

**Cross References**

**Tax Equalization and Review Commission**, see section 77-5003.

The plain language of this section (formerly section 79-3809) requires the Nebraska Department of Revenue to adopt and promulgate rules and regulations to regulate the valuation process. *Loup City Pub. Sch. v. Nebraska Dept. of Rev.*, 252 Neb. 387, 562 N.W.2d 551 (1997).

**79-1017 Repealed. Laws 1998, Spec. Sess., LB 1, § 63.**

**79-1017.01 Local system formula resources; amounts included.**

(1) For state aid calculated for each school fiscal year prior to school fiscal year 2023-24, local system formula resources includes other actual receipts determined pursuant to section 79-1018.01, net option funding determined pursuant to section 79-1009, allocated income tax funds determined pursuant to section 79-1005.01, and community achievement plan aid determined pursuant to section 79-1005, and is reduced by amounts paid by the district in the most recently available complete data year as property tax refunds pursuant to or in the manner prescribed by section 77-1736.06.

(2) For state aid calculated for school fiscal year 2023-24 and each school fiscal year thereafter, local system formula resources includes other actual receipts determined pursuant to section 79-1018.01, net option funding determined pursuant to section 79-1009, allocated income tax funds determined pursuant to section 79-1005.01, community achievement plan aid determined pursuant to section 79-1005, and a percentage of foundation aid determined pursuant to section 79-1006, and is reduced by amounts paid by the district in the most recently available complete data year as property tax refunds pursuant to or in the manner prescribed by section 77-1736.06.

**Source:** Laws 1997, LB 806, § 48; Laws 2002, LB 898, § 11; Laws 2009, LB545, § 14; Laws 2011, LB235, § 17; Laws 2013, LB407, § 12; Laws 2014, LB967, § 17; Laws 2015, LB519, § 14; Laws 2016, LB959, § 7; Laws 2016, LB1067, § 40; Laws 2017, LB512, § 14; Laws 2019, LB675, § 10; Laws 2023, LB583, § 4.

**79-1018 Repealed. Laws 1998, Spec. Sess., LB 1, § 63.**

**79-1018.01 Local system formula resources; other actual receipts included.**

Except as otherwise provided in this section, local system formula resources include other actual receipts available for the funding of general fund operating expenditures as determined by the department for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid. Other actual receipts include:

- (1) Public power district sales tax revenue;
- (2) Fines and license fees;
- (3) Tuition receipts from individuals, other districts, or any other source except receipts derived from adult education, receipts derived from summer school tuition, receipts derived from early childhood education tuition, tuition receipts from converted contracts beginning with the calculation of state aid to be distributed in school fiscal year 2011-12, and receipts from educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities;
- (4) Transportation receipts;
- (5) Interest on investments;
- (6) Other miscellaneous noncategorical local receipts, not including receipts from private foundations, individuals, associations, or charitable organizations;
- (7) Special education receipts;
- (8) Special education receipts and non-special-education receipts from the state for wards of the court and wards of the state;
- (9) All receipts from the temporary school fund. Receipts from the temporary school fund shall only include (a) receipts pursuant to section 79-1035 and (b) the receipt of funds pursuant to section 79-1036 for property leased for a public purpose as set forth in subdivision (1)(a) of section 77-202;
- (10) Motor vehicle tax receipts received;
- (11) Pro rata motor vehicle license fee receipts;
- (12) Other miscellaneous state receipts excluding revenue from the textbook loan program authorized by section 79-734;

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

(14) All other noncategorical federal receipts;

(15) Receipts under the federal Medicare Catastrophic Coverage Act of 1988, as such act existed on January 1, 2014, as authorized pursuant to sections 43-2510 and 43-2511 for services to school-age children, excluding amounts designated as reimbursement for costs associated with the implementation and administration of the billing system pursuant to section 43-2511;

(16) Receipts for accelerated or differentiated curriculum programs pursuant to sections 79-1106 to 79-1108.03; and

(17) Revenue received from the nameplate capacity tax distributed pursuant to section 77-6204.

**Source:** Laws 1997, LB 710, § 12; Laws 1997, LB 806, § 50; Laws 1998, LB 306, § 44; Laws 1998, LB 1229, § 4; Laws 1998, Spec. Sess., LB 1, § 25; Laws 1999, LB 149, § 9; Laws 2001, LB 797, § 25; Laws 2001, LB 833, § 6; Laws 2006, LB 1208, § 6; Laws 2007, LB603, § 5; Laws 2008, LB988, § 40; Laws 2010, LB1014, § 2; Laws 2010, LB1048, § 16; Laws 2011, LB235, § 18; Laws 2014, LB276, § 5; Laws 2015, LB525, § 22; Laws 2016, LB1067, § 41.

Cross References

Special Education Act, see section 79-1110.

**79-1019 Repealed. Laws 1998, Spec. Sess., LB 1, § 63.**

**79-1020 Aid allocation adjustments; department; duties.**

Nothing in the Tax Equity and Educational Opportunities Support Act shall be construed as altering, amending, or changing in any manner the duties or obligations of the department under section 79-1065, and the provisions of the act shall not be construed as relieving the department of its obligation to make appropriate aid allocation adjustments following a final determination of the amount of funds due to any school district or local system under the provisions of or through the operation of the act.

**Source:** Laws 1995, LB 542, § 3; R.S.Supp.,1995, § 79-3811.02; Laws 1996, LB 900, § 666; Laws 1996, LB 1050, § 28; Laws 1998, Spec. Sess., LB 1, § 26.

**79-1021 Education Future Fund; created; use; priority; investment; fund transfers.**

(1) The Education Future Fund is created. The fund shall be administered by the department and shall consist of money transferred to the fund by the Legislature. Transfers may be made from the Education Future Fund to the Computer Science and Technology Education Fund at the direction of the Legislature. Any money in the Education Future Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The fund shall be used only for the following purposes, in order of priority:

(a) To fully fund equalization aid under the Tax Equity and Educational Opportunities Support Act;

(b) To fund reimbursements related to special education under section 79-1142;

(c) To fund foundation aid under the Tax Equity and Educational Opportunities Support Act;

(d) To increase funding for school districts in a way that results in direct property tax relief, which means a dollar-for-dollar replacement of property taxes by a state funding source;

(e) To provide funding for a grant program created by the Legislature to address teacher turnover rates and keep existing teachers in classrooms;

(f) To provide funding to increase career and technical educational classroom opportunities for students, including, but not limited to, computer science education. Such funding must provide students with the academic and technical skills, knowledge, and training necessary to succeed in future careers;

(g) To provide funding for a grant program created by the Legislature to provide students the opportunity to have a mentor who will continuously engage with the student directly to aid in the student's professional growth and give ongoing support and encouragement to the student;

(h) To provide funding for extraordinary increases in special education expenditures to allow school districts with large, unexpected special education expenditures to more easily meet the needs of all students;

(i) To provide funding to help recruit teachers throughout the state by utilizing apprenticeships through a teacher apprenticeship program and an alternative certification process;

(j) To provide funding to develop and implement a professional learning system to help provide sustained professional learning and training regarding evidence-based reading instruction and for a grant program relating to dyslexia research; and

(k) To provide funding for a pilot project administered by the State Department of Education to provide menstrual products to school districts.

(3)(a) The State Treasurer shall transfer one billion dollars from the General Fund to the Education Future Fund in fiscal year 2023-24, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(b) The State Treasurer shall transfer two hundred fifty million dollars from the General Fund to the Education Future Fund in fiscal year 2024-25, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(c) It is the intent of the Legislature that two hundred fifty million dollars be transferred from the General Fund to the Education Future Fund in fiscal year 2025-26 and each fiscal year thereafter.

**Source:** Laws 1990, LB 1059, § 12; Laws 1994, LB 1066, § 94; Laws 1995, LB 840, § 8; R.S.Supp.,1995, § 79-3812; Laws 1996, LB 900, § 667; Laws 1996, LB 1050, § 29; Laws 1998, Spec. Sess., LB 1, § 27; Laws 2023, LB705, § 89; Laws 2023, LB818, § 22; Laws 2024, LB1284, § 12.

Operative date July 19, 2024.

## Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

**79-1022 Distribution of income tax receipts and state aid; effect on budget.**

(1) On or before June 15, 2023, and on or before March 1 of each year thereafter, the department shall determine the amounts to be distributed to each local system for the ensuing school fiscal year 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 local system. On or before June 15, 2023, and on or before March 1 of each year thereafter, the department shall report the necessary funding level for the ensuing school fiscal year to the Governor, the Appropriations Committee of the Legislature, and the Education Committee of the Legislature. The report submitted to the committees of the Legislature shall be submitted electronically. Except as otherwise provided in this subsection, certified state aid amounts, including adjustments pursuant to section 79-1065.02, shall be shown as budgeted non-property-tax receipts and deducted prior to calculating the property tax request in the local system's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section 79-1024.

(2) Except as provided in this subsection, subsection (8) of section 79-1016, and sections 79-1005, 79-1033, and 79-1065.02, 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 local system 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.

**Source:** Laws 1990, LB 1059, § 13; Laws 1991, LB 511, § 79; Laws 1992, LB 245, § 84; Laws 1994, LB 1290, § 8; Laws 1994, LB 1310, § 16; Laws 1995, LB 840, § 9; R.S.Supp., 1995, § 79-3813; Laws 1996, LB 900, § 668; Laws 1996, LB 1050, § 30; Laws 1997, LB 710, § 13; Laws 1997, LB 713, § 5; Laws 1997, LB 806, § 51; Laws 1998, Spec. Sess., LB 1, § 28; Laws 1999, LB 149, § 10; Laws 1999, LB 194, § 35; Laws 1999, LB 813, § 23; Laws 2002, LB 898, § 12; Laws 2002, Second Spec. Sess., LB 4, § 1; Laws 2003, LB 67, § 12; Laws 2003, LB 540, § 5; Laws 2004, LB 973, § 67; Laws 2005, LB 126, § 47; Laws 2005, LB 198, § 3; Laws 2006, LB 1024, § 86; Referendum 2006, No. 422; Laws 2007, LB21, § 3; Laws 2007, LB641, § 28; Laws 2008, LB988, § 41; Laws 2009, LB61, § 1; Laws 2009, LB545, § 15; Laws 2009, LB548, § 1; Laws 2010, LB711, § 2; Laws 2010, LB1071, § 19; Laws 2011, LB18, § 6; Laws 2012, LB633, § 1; Laws 2012, LB782, § 159; Laws 2013, LB408, § 1; Laws 2014, LB838, § 1; Laws 2016, LB1067, § 43; Laws 2017, LB119, § 1; Laws 2019, LB430, § 1; Laws 2019, LB675, § 11; Laws 2020, LB880, § 1; Laws 2023, LB583, § 5.

**79-1022.01 Repealed. Laws 2001, LB 797, § 55.**

**79-1022.02 School fiscal year 2023-24 certifications null and void.**

Notwithstanding any other provision of law, any certification of state aid pursuant to section 79-1022, certification of budget authority pursuant to section 79-1023, and certification of applicable allowable reserve percentages pursuant to section 79-1027 completed prior to June 1, 2023, for school fiscal year 2023-24 are null and void.

**Source:** Laws 2002, LB 898, § 13; Laws 2003, LB 540, § 6; Laws 2008, LB988, § 42; Laws 2011, LB18, § 7; Laws 2012, LB633, § 2; Laws 2017, LB119, § 2; Laws 2019, LB430, § 2; Laws 2020, LB880, § 2; Laws 2023, LB583, § 6.

**79-1023 School district; general fund budget of expenditures; limitation; department; certification.**

(1) On or before June 15, 2023, and on or before March 1 of each year thereafter, the department shall determine and certify to each school district budget authority for the general fund budget of expenditures for the ensuing school fiscal year.

(2) Except as provided in sections 79-1028.01, 79-1029, 79-1030, and 81-829.51, each school district shall have budget authority for the general fund budget of expenditures equal to the greater of (a) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by the basic allowable growth rate for the school fiscal year for which budget authority is being calculated, (b) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by an amount equal to any student growth adjustment calculated for the school fiscal year for which budget authority is being calculated, or (c) one hundred ten percent of formula need for the school fiscal year for which budget authority is being calculated minus the special education budget of expenditures as filed on the school district budget statement on or before September 30 for the immediately preceding school fiscal year, which special education budget of expenditures is increased by the basic allowable growth rate for the school fiscal year for which budget authority is being calculated.

(3) For any school fiscal year for which the budget authority for the general fund budget of expenditures for a school district is based on a student growth adjustment, the budget authority for the general fund budget of expenditures for such school district shall be adjusted in future years to reflect any student growth adjustment corrections related to such student growth adjustment.

**Source:** Laws 1990, LB 1059, § 14; Laws 1991, LB 829, § 33; Laws 1992, LB 1063, § 202; Laws 1992, Second Spec. Sess., LB 1, § 173; Laws 1995, LB 613, § 3; Laws 1996, LB 299, § 27; R.S.Supp., 1995, § 79-3814; Laws 1996, LB 900, § 669; Laws 1998, LB 989, § 8; Laws 2003, LB 67, § 13; Laws 2008, LB988, § 43; Laws 2009, LB61, § 2; Laws 2009, LB545, § 16; Laws 2009, LB548, § 2; Laws 2009, First Spec. Sess., LB5, § 11; Laws 2010, LB711, § 3; Laws 2010, LB1071, § 20; Laws 2011, LB18, § 8; Laws 2011, LB235, § 19; Laws 2012, LB633, § 3; Laws

2013, LB408, § 2; Laws 2014, LB838, § 2; Laws 2015, LB283, § 3; Laws 2017, LB119, § 3; Laws 2019, LB430, § 3; Laws 2020, LB880, § 3; Laws 2021, LB644, § 23; Laws 2023, LB583, § 7.

**Cross References**

Retirement expenditures, not exempt from limitations, see section 79-977.

**79-1024 Budget statement; submitted to department; Auditor of Public Accounts; duties; failure to submit; effect.**

(1) The department may require each district to submit to the department a duplicate copy of such portions of the district's budget statement as the Commissioner of Education directs. The department may verify any data used to meet the requirements of the Tax Equity and Educational Opportunities Support Act. The Auditor of Public Accounts shall review each district's budget statement for statutory compliance, make necessary changes in the budget documents for districts to effectuate the budget limitations imposed pursuant to sections 79-1023 to 79-1030, and notify the Commissioner of Education of any district failing to submit to the auditor the budget documents required pursuant to this subsection by the date established in subsection (1) of section 13-508 or failing to make any corrections of errors in the documents pursuant to section 13-504 or 13-511.

(2) If a school district fails to submit to the department or the auditor the budget documents required pursuant to subsection (1) of this section by the date established in subsection (1) of section 13-508 or fails to make any corrections of errors in the documents pursuant to section 13-504 or 13-511, the commissioner, upon notification from the auditor or upon his or her own knowledge that the required budget documents and any required corrections of errors from any school district have not been properly filed in accordance with the Nebraska Budget Act and after notice to the district and an opportunity to be heard, shall direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the required budget documents or corrections of errors are received by the auditor and the department. In addition, the commissioner shall direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county treasurer of receipt of the required budget documents or corrections of errors. The county treasurer shall withhold such money. For school districts that are members of learning communities, a determination of school money belonging to the district shall be based on the proportionate share of property tax receipts allocated to the school district by the learning community coordinating council for school fiscal years prior to school fiscal year 2017-18, and the county treasurer shall withhold any such school money in the possession of the county treasurer from the school district. If the school district does not comply with this section prior to the end of the state's biennium following the biennium which included the fiscal year for which state aid was calculated, the state aid funds shall revert to the General Fund. The amount of any reverted funds shall be included in data provided to the Governor in accordance with section 79-1031. The board of any district failing to submit to the department or the auditor the budget documents required pursuant to this section by the date established in subsection (1) of section 13-508 or failing to make any corrections of errors in the documents



pursuant to section 13-504 or 13-511 shall be liable to the school district for all school money which such district may lose by such failing.

**Source:** Laws 1990, LB 1059, § 15; Laws 1991, LB 511, § 80; Laws 1992, LB 245, § 85; Laws 1992, LB 1001, § 43; R.S.1943, (1994), § 79-3815; Laws 1996, LB 900, § 670; Laws 1997, LB 269, § 61; Laws 1997, LB 710, § 14; Laws 1998, Spec. Sess., LB 1, § 29; Laws 1999, LB 272, § 93; Laws 1999, LB 813, § 24; Laws 2001, LB 797, § 26; Laws 2003, LB 67, § 14; Laws 2006, LB 1024, § 87; Laws 2008, LB988, § 44; Laws 2009, LB392, § 11; Laws 2016, LB1067, § 44.

**Cross References**

Nebraska Budget Act, see section 13-501.

**79-1025 Basic allowable growth rate.**

The basic allowable growth rate for general fund expenditures other than expenditures for special education shall be the base limitation established under section 77-3446. The budget authority for special education for all classes of school districts shall be the actual anticipated expenditures for special education subject to the approval of the state board. Such budget authority and funds generated pursuant to such budget authority shall be used only for special education expenditures.

**Source:** Laws 1990, LB 1059, § 16; Laws 1991, LB 511, § 81; Laws 1992, LB 245, § 86; Laws 1992, LB 1063, § 203; Laws 1992, Second Spec. Sess., LB 1, § 174; Laws 1995, LB 613, § 4; Laws 1996, LB 299, § 28; R.S.Supp.,1995, § 79-3816; Laws 1996, LB 900, § 671; Laws 1998, LB 989, § 9; Laws 1998, Spec. Sess., LB 1, § 30; Laws 2003, LB 540, § 7; Laws 2011, LB235, § 20.

**Cross References**

Retirement expenditures, not exempt from limitations, see section 79-977.

**79-1026 Repealed. Laws 2011, LB 235, § 26.**

**79-1026.01 Repealed. Laws 2011, LB 235, § 26.**

**79-1027 Budget; restrictions.**

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 June 15, 2023, and on or before March 1 each year thereafter, the department shall determine and certify each district’s applicable allowable reserve percentage for the ensuing school fiscal year.

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.

**Source:** Laws 1990, LB 1059, § 18; Laws 1991, LB 511, § 83; Laws 1992, LB 245, § 88; Laws 1992, LB 1063, § 204; Laws 1992, Second Spec. Sess., LB 1, § 175; R.S.1943, (1994), § 79-3818; Laws 1996, LB 900, § 673; Laws 1998, Spec. Sess., LB 1, § 31; Laws 1999, LB 149, § 12; Laws 1999, LB 813, § 26; Laws 2001, LB 797, § 28; Laws 2002, LB 460, § 2; Laws 2003, LB 67, § 16; Laws 2005, LB 126, § 49; Referendum 2006, No. 422; Laws 2007, LB21, § 5; Laws 2009, LB61, § 4; Laws 2009, LB545, § 18; Laws 2009, LB548, § 4; Laws 2010, LB711, § 5; Laws 2010, LB1071, § 22; Laws 2011, LB18, § 10; Laws 2012, LB633, § 4; Laws 2013, LB408, § 3; Laws 2014, LB838, § 3; Laws 2017, LB119, § 4; Laws 2019, LB430, § 4; Laws 2020, LB880, § 4; Laws 2023, LB583, § 8.

**79-1027.01 Repealed. Laws 2018, LB377, § 87.**

**79-1028 Repealed. Laws 2011, LB 235, § 26.**

**79-1028.01 School fiscal years; district may exceed certain limits; situations enumerated; state board; duties.**

(1) For each school fiscal year, a school district may exceed its budget authority for the general fund budget of expenditures as calculated pursuant to section 79-1023 for such school fiscal year by a specific dollar amount for the following exclusions:

(a) Expenditures for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act;

(b) Expenditures 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;

(c) Expenditures pursuant to the Retirement Incentive Plan authorized in section 79-855 or the Staff Development Assistance authorized in section 79-856;

(d) Expenditures of amounts received from educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities;

(e) Expenditures to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Employees Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent;

(f) Expenditures to pay for school district contributions pursuant to subdivision (1)(c)(i) or (1)(d)(i) of section 79-9,113 to the retirement system established pursuant to the Class V School Employees Retirement Act to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent;

(g) Expenditures for incentives agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment occurring prior to July 1, 2009, occurring on or after the last day of the 2010-11 school year and prior to the first day of the 2013-14 school year, or, to the extent that a district demonstrates to the State Board of Education pursuant to subsection (3) of this section that the agreement will result in a net savings in salary and benefit costs to the school district over a five-year period, occurring on or after the first day of the 2013-14 school year and prior to September 1, 2017;

(h) Expenditures by a school district with budgeted expenditures otherwise equal to the budget authority for the general fund budget of expenditures for such school district as calculated pursuant to section 79-1023 for such school fiscal year for current and future qualified voluntary termination incentives for certificated teachers pursuant to subsection (3) of section 79-8,142 that are not otherwise included in an exclusion pursuant to this subsection;

(i) Expenditures by a school district with budgeted expenditures otherwise equal to the budget authority for the general fund budget of expenditures for such school district as calculated pursuant to section 79-1023 for such school fiscal year for seventy-five percent of incentives agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2017, and August 31, 2018, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to this subsection;

(j) Expenditures by a school district with budgeted expenditures otherwise equal to the budget authority for the general fund budget of expenditures for such school district as calculated pursuant to section 79-1023 for such school fiscal year for fifty percent of incentives agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2018, and August 31, 2019, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to this subsection;

(k) Expenditures by a school district with budgeted expenditures otherwise equal to the budget authority for the general fund budget of expenditures for such school district as calculated pursuant to section 79-1023 for such school fiscal year for twenty-five percent of incentives agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2019, and August 31, 2020, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to this subsection;

(l) The special education budget of expenditures;

(m) Expenditures of special grant funds; and

(n) Expenditures of funds received as federal impact aid pursuant to 20 U.S.C. 7701 to 7714, as such sections existed on January 1, 2016, due to a district having land within its boundaries that is federal property classified as

Indian lands under 20 U.S.C. 7713(7), as such section existed on January 1, 2016, and funds received as impact aid due to children in attendance who resided on Indian lands in accordance with 20 U.S.C. 7703(a)(1)(C), as such section existed on January 1, 2016.

(2) For each school fiscal year, a school district may exceed its budget authority for the general fund budget of expenditures as calculated pursuant to section 79-1023 for such school fiscal year by a specific dollar amount and include such dollar amount in the budget of expenditures used to calculate budget authority for the general fund budget of expenditures pursuant to section 79-1023 for future years for the following exclusions:

(a) The first school fiscal year the district will be participating in Network Nebraska for the full school fiscal year, for the difference of the estimated expenditures for such school fiscal year for telecommunications services, access to data transmission networks that transmit data to and from the school district, and the transmission of data on such networks as such expenditures are defined by the department for purposes of the distance education and telecommunications allowance minus the dollar amount of such expenditures for the second school fiscal year preceding the first full school fiscal year the district participates in Network Nebraska;

(b) Expenditures for new elementary attendance sites in the first year of operation or the first year of operation after being closed for at least one school year if such elementary attendance site will most likely qualify for the elementary site allowance in the immediately following school fiscal year as determined by the state board;

(c) For the first school fiscal year for which early childhood education membership is included in formula students for the calculation of state aid, expenditures for early childhood education equal to the amount the school district received in early childhood education grants pursuant to section 79-1103 for the prior school fiscal year, increased by the basic allowable growth rate; and

(d) For school fiscal year 2013-14, an amount not to exceed two percent over the previous school year if such increase is approved by a seventy-five percent majority vote of the school board of such district.

(3) The state board shall approve, deny, or modify the amount allowed for any exclusions to the budget authority for the general fund budget of expenditures pursuant to this section.

**Source:** Laws 2008, LB988, § 46; Laws 2008, LB1154, § 10; Laws 2009, LB545, § 19; Laws 2010, LB1014, § 3; Laws 2011, LB235, § 21; Laws 2011, LB382, § 6; Laws 2011, LB509, § 39; Laws 2013, LB407, § 13; Laws 2013, LB410, § 10; Laws 2013, LB553, § 16; Laws 2014, LB967, § 18; Laws 2015, LB525, § 23; Laws 2016, LB1066, § 18; Laws 2017, LB512, § 15; Laws 2018, LB1005, § 34.

**Cross References**

**Class V School Employees Retirement Act**, see section 79-978.01.  
**Emergency Management Act**, see section 81-829.36.

**79-1028.02 Repealed. Laws 2016, LB1066, § 25.**

**79-1028.03 Repealed. Laws 2019, LB675, § 57.**

**79-1028.04 Repealed. Laws 2016, LB1066, § 25.****79-1029 Budget authority for general fund budget of expenditures; vote to exceed; procedure.**

A school district may exceed the budget authority for the general fund budget of expenditures prescribed in section 79-1023 by an amount approved by a majority of legal voters voting on the issue at a primary, general, or special election called for such purpose upon the recommendation of the board or upon the receipt by the county clerk or election commissioner of a petition requesting an election, signed by at least five percent of the legal voters of the district. The recommendation of the board or the petition of the legal voters shall include the amount by which the board would increase its general fund budget of expenditures for the ensuing school year over and above the budget authority for the general fund budget of expenditures prescribed in section 79-1023. The county clerk or election commissioner shall place the question on the primary or general election ballot or call for a special election on the issue after the receipt of such board recommendation or legal voter petition. The election shall be held pursuant to the Election Act or section 77-3444, and all costs for a special election shall be paid by the district. A vote to exceed the budget authority for the general fund budget of expenditures prescribed in section 79-1023 may be approved on the same question as a vote to exceed the levy limits provided in section 77-3444.

**Source:** Laws 1990, LB 1059, § 20; Laws 1991, LB 511, § 85; Laws 1992, LB 245, § 90; Laws 1994, LB 76, § 608; Laws 1996, LB 299, § 31; R.S.1943, (1994), § 79-3820; Laws 1996, LB 900, § 675; Laws 1997, LB 345, § 29; Laws 1998, LB 989, § 12; Laws 1999, LB 813, § 28; Laws 2000, LB 1213, § 1; Laws 2003, LB 67, § 19; Laws 2008, LB988, § 47; Laws 2011, LB235, § 22; Laws 2018, LB377, § 63.

## Cross References

Election Act, see section 32-101.

**79-1030 Unused budget authority for general fund budget of expenditures; carried forward; limitation.**

A school district may choose not to increase its general fund budget of expenditures by the full amount of budget authority for the general fund budget of expenditures as calculated pursuant to section 79-1023. In such cases, the department shall calculate the amount of unused budget authority which shall be carried forward to future budget years. The amount of unused budget authority that may be used by a district in a single school fiscal year to increase its general fund budget of expenditures above the budget authority for the general fund budget of expenditures as calculated pursuant to section 79-1023 shall be limited to two percent of the difference of the general fund budget of expenditures minus the sum of special grant funds, the special education budget of expenditures, and exceptions pursuant to subsection (1) of section 79-1028.01 for the immediately preceding school fiscal year.

**Source:** Laws 1990, LB 1059, § 21; R.S.1943, (1994), § 79-3821; Laws 1996, LB 900, § 676; Laws 1998, LB 989, § 13; Laws 1998, Spec.

Sess., LB 1, § 32; Laws 2006, LB 1024, § 91; Laws 2010, LB1071, § 23; Laws 2011, LB235, § 23; Laws 2018, LB377, § 64.

**79-1031 Department; annual estimate required.**

The department, with assistance from the Property Tax Administrator, the Legislative Fiscal Analyst, the budget division of the Department of Administrative Services, a legal counsel or research analyst from the Education Committee of the Legislature, and a legal counsel or research analyst from the Revenue Committee of the Legislature, shall annually, on or before November 15, provide an estimate of the necessary funding level for the next school fiscal year under the Tax Equity and Educational Opportunities Support Act to the Governor, the Appropriations Committee of the Legislature, and the Education Committee of the Legislature.

**Source:** Laws 1990, LB 1059, § 22; Laws 1991, LB 511, § 86; Laws 1992, LB 245, § 91; Laws 1993, LB 348, § 72; R.S.1943, (1994), § 79-3822; Laws 1996, LB 900, § 677; Laws 1996, LB 1050, § 40; Laws 1997, LB 401, § 4; Laws 1997, LB 710, § 16; Laws 1997, LB 806, § 53; Laws 1998, Spec. Sess., LB 1, § 33; Laws 1999, LB 149, § 14; Laws 2024, LB303, § 1.  
Effective date July 19, 2024.

**79-1031.01 Appropriations Committee; duties.**

The Appropriations Committee of the Legislature shall annually include the amount necessary to fund the state aid that will be certified to school districts on or before June 15, 2023, and on or before March 1 of each year thereafter for each ensuing school fiscal year in its recommendations to the Legislature to carry out the requirements of the Tax Equity and Educational Opportunities Support Act.

**Source:** Laws 1997, LB 710, § 17; Laws 1997, LB 806, § 54; Laws 1998, Spec. Sess., LB 1, § 34; Laws 1999, LB 149, § 15; Laws 2002, LB 898, § 14; Laws 2005, LB 126, § 51; Referendum 2006, No. 422; Laws 2007, LB21, § 6; Laws 2008, LB988, § 48; Laws 2009, LB61, § 5; Laws 2009, LB545, § 22; Laws 2009, LB548, § 5; Laws 2010, LB711, § 6; Laws 2010, LB1071, § 24; Laws 2011, LB18, § 13; Laws 2012, LB633, § 5; Laws 2013, LB408, § 4; Laws 2014, LB838, § 4; Laws 2017, LB119, § 5; Laws 2019, LB430, § 5; Laws 2020, LB880, § 5; Laws 2023, LB583, § 9.

**79-1031.02 School district; department; reports.**

(1) For school fiscal year 2023-24 and each school fiscal year thereafter, each school district shall submit a report to the department that includes the following information:

- (a) The amount by which the school district reduced its property tax request for such school fiscal year, if any such reduction occurred; and
- (b) Other information as required by the department.

(2) The department shall compile the information received from school districts under subsection (1) of this section and shall submit a comprehensive report of all such information annually to the Governor, the chairperson of the

Education Committee of the Legislature, and the Clerk of the Legislature. The report submitted to the committee and the Clerk of the Legislature shall be submitted electronically.

**Source:** Laws 2023, LB583, § 10.

**79-1032 Repealed. Laws 2002, Second Spec. Sess., LB 41, § 1.**

**79-1033 State aid; payments; reports; use; requirements; failure to submit reports; effect; early payments.**

(1) Except as otherwise provided in the Tax Equity and Educational Opportunities Support Act, state aid payable pursuant to the act for each school fiscal year shall be based upon data found in applicable reports for the most recently available complete data year. The annual financial reports and the annual statistical summary of all school districts shall be submitted to the Commissioner of Education pursuant to the dates prescribed in section 79-528. If a school district fails to timely submit its reports, the commissioner, after notice to the district and an opportunity to be heard, shall direct that any state aid granted pursuant to the act be withheld until such time as the reports are received by the department. In addition, the commissioner shall direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county treasurer of receipt of such reports. The county treasurer shall withhold such money. For school districts that are members of learning communities, a determination of school money belonging to the district shall be based on the proportionate share of state aid and property tax receipts allocated to the school district by the learning community coordinating council for school fiscal years prior to school fiscal year 2017-18, and the county treasurer shall withhold any such school money in the possession of the county treasurer from the school district. If the school district does not comply with this section prior to the end of the state's biennium following the biennium which included the school fiscal year for which state aid was calculated, the state aid funds shall revert to the General Fund. The amount of any reverted funds shall be included in data provided to the Governor in accordance with section 79-1031.

(2) A district which receives, or has received in the most recently available complete data year or in either of the two school fiscal years preceding the most recently available complete data year, federal funds in excess of twenty-five percent of its general fund budget of expenditures may apply for early payment of state aid paid pursuant to the act when such federal funds are not received in a timely manner. Such application may be made at any time by a district suffering such financial hardship and may be for any amount up to fifty percent of the remaining amount to which the district is entitled during the current school fiscal year. The state board may grant the entire amount applied for or any portion of such amount if the state board finds that a financial hardship exists in the district. The state board shall notify the Director of Administrative Services of the amount of funds to be paid in 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. For purposes of this subsection, financial hardship means a situation in which income to a district is exceeded

by liabilities to such a degree that if early payment is not received it will be necessary for the district to discontinue vital services or functions.

**Source:** Laws 1990, LB 1059, § 24; Laws 1991, LB 511, § 88; Laws 1992, LB 245, § 93; Laws 1992, LB 1001, § 44; Laws 1993, LB 348, § 73; Laws 1994, LB 1290, § 9; R.S.1943, (1994), § 79-3824; Laws 1996, LB 900, § 679; Laws 1997, LB 710, § 18; Laws 1998, Spec. Sess., LB 1, § 36; Laws 1999, LB 272, § 94; Laws 2006, LB 1024, § 92; Laws 2009, LB392, § 12; Laws 2016, LB1067, § 45.

(b) SCHOOL FUNDS

**79-1034 Repealed. Laws 2021, LB509, § 25.**

**79-1035 School funds; apportionment by Commissioner of Education; basis.**

(1)(a) The State Treasurer shall, on or before January 25 of each year, make a complete exhibit of all money belonging to the permanent school fund and the temporary school fund as returned to him or her from the several counties, together with the amount derived from other sources, and deliver such exhibit duly certified to the Commissioner of Education and the chairperson of the Education Committee of the Legislature.

(b) Through 2021, the exhibit required in subdivision (1)(a) of this section shall include a separate accounting, not to exceed an amount of ten million dollars, of the income from solar and wind agreements on school lands. The amount of income from solar and wind agreements on school lands shall be used to fund the grants described in section 79-308. The Board of Educational Lands and Funds shall provide the State Treasurer with the information necessary to make the exhibit required by this subsection. Separate accounting shall not be made for income from solar or wind agreements on school lands that exceeds the sum of ten million dollars.

(2) On or before February 25 following receipt of the exhibit from the State Treasurer pursuant to subsection (1) of this section, the Commissioner of Education shall make the apportionment of the temporary school fund to each school district as follows: From the whole amount, there shall be paid to those districts in which there are school or saline lands, which lands are used for a public purpose, an amount in lieu of tax money that would be raised if such lands were taxable, to be fixed in the manner prescribed in section 79-1036; and the remainder shall be apportioned to the districts according to the pro rata enumeration of children who are five through eighteen years of age in each district last returned from the school district. The calculation of apportionment for each school fiscal year shall include any corrections to the prior school fiscal year's apportionment.

(3) The Commissioner of Education shall certify the amount of the apportionment of the temporary school fund as provided in subsection (2) of this section to the Director of Administrative Services. The Director of Administrative Services shall issue payments to the various districts for the respective amounts so certified by the Commissioner of Education.

(4) For purposes of this section, agreement means any lease, easement, covenant, or other such contractual arrangement.

**Source:** Laws 1881, c. 78, subdivision XI, § 3, p. 369; R.S.1913, § 6930; Laws 1915, c. 122, § 1, p. 280; C.S.1922, § 6513; C.S.1929,



§ 79-2002; Laws 1933, c. 144, § 3, p. 558; C.S.Supp.,1941, § 79-2002; R.S.1943, § 79-2002; Laws 1945, c. 210, § 1, p. 622; Laws 1949, c. 256, § 377, p. 817; Laws 1957, c. 359, § 1, p. 1217; Laws 1963, c. 493, § 1, p. 1575; Laws 1971, LB 1002, § 1; Laws 1989, LB 487, § 9; Laws 1990, LB 1090, § 22; Laws 1994, LB 858, § 10; R.S.1943, (1994), § 79-1302; Laws 1996, LB 900, § 681; Laws 1997, LB 345, § 30; Laws 1997, LB 710, § 19; Laws 1999, LB 272, § 95; Laws 2001, LB 797, § 31; Laws 2010, LB1014, § 4; Laws 2012, LB828, § 20; Laws 2015, LB525, § 24; Laws 2021, LB509, § 15; Laws 2021, LB528, § 37.

Method and manner of apportionment for benefit of common schools is provided. State ex rel. Ebke v. Board of Educational Lands & Funds, 159 Neb. 79, 65 N.W.2d 392 (1954).

#### **79-1035.01 Permanent school fund; use.**

The permanent school fund is the fund described in Article VII, sections 7 and 8, of the Constitution of Nebraska, the principal of which shall be held and invested in perpetuity by the state in trust for the support of its common schools. The annual interest and other income, but not the principal, is subject to use for the support and maintenance of the common schools in each public school district of the state as the Legislature provides in accordance with Article VII, section 9, of the Constitution of Nebraska.

**Source:** Laws 1997, LB 345, § 31.

#### **79-1035.02 Temporary school fund; use.**

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

**Source:** Laws 1997, LB 345, § 32.

#### **79-1035.03 School lands, defined.**

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

**Source:** Laws 1997, LB 345, § 33.

#### **79-1036 School funds; public lands; amount in lieu of tax; reappraisal; appeal.**

(1) In making the apportionment under section 79-1035, the Commissioner of Education shall distribute from the school fund for school purposes to (a) for school fiscal years prior to school fiscal year 2017-18, any and all learning communities and school districts which are not members of a learning community, and (b) for school fiscal year 2017-18 and each school fiscal year

thereafter, all school districts in which there are situated school lands which have not been sold and transferred by deed or saline lands owned by the state, which lands are being used for a public purpose, an amount in lieu of tax money that would be raised by school district levies if such lands were taxable, to be ascertained in accordance with subsection (2) of this section.

(2) The county assessor shall certify to the Commissioner of Education the tax levies of each school district and, for levies certified prior to January 1, 2017, learning community in which school land or saline land is located and the last appraised value of such school land, which value shall be the same percentage of the appraised value as the percentage of the assessed value is of market value in subsection (2) of section 77-201 for the purpose of applying the applicable tax levies for each district and, for levies certified prior to January 1, 2017, learning community in determining the distribution to the districts of such amounts. The school board of any school district and, for levies certified prior to January 1, 2017, the learning community coordinating council of any learning community in which there is located any leased or undeeded school land or saline land subject to this section may appeal to the Board of Educational Lands and Funds for a reappraisal of such school land if such school board or learning community coordinating council deems the land not appraised in proportion to the value of adjoining land of the same or similar value. The Board of Educational Lands and Funds shall proceed to investigate the facts involved in such appeal and, if the contention of the school board or learning community coordinating council is correct, make the proper reappraisal. The value calculation in this subsection shall be used by the Commissioner of Education for making distributions in each school fiscal year.

**Source:** Laws 1881, c. 78, subdivision VIII, § 9, p. 364; R.S.1913, § 6906; Laws 1921, c. 82, § 1, p. 296; C.S.1922, § 6482; Laws 1929, c. 187, § 1, p. 651; C.S.1929, § 79-1609; Laws 1933, c. 144, § 2, p. 557; C.S.Supp.,1941, § 79-1609; Laws 1943, c. 200, § 1, p. 670; R.S.1943, § 79-1612; Laws 1947, c. 282, § 1, p. 890; Laws 1949, c. 256, § 378, p. 818; Laws 1957, c. 359, § 2, p. 1218; Laws 1979, LB 187, § 246; Laws 1982, LB 572, § 1; Laws 1983, LB 39, § 1; Laws 1990, LB 1090, § 23; Laws 1991, LB 511, § 61; Laws 1992, LB 245, § 66; Laws 1993, LB 839, § 5; Laws 1994, LB 858, § 11; R.S.1943, (1994), § 79-1303; Laws 1996, LB 900, § 682; Laws 1997, LB 270, § 104; Laws 1998, Spec. Sess., LB 1, § 37; Laws 1999, LB 272, § 96; Laws 2001, LB 797, § 32; Laws 2003, LB 394, § 8; Laws 2010, LB1070, § 8; Laws 2016, LB1067, § 46; Laws 2018, LB377, § 65.

**79-1037 School funds; distribution; basis.**

(1) Each county treasurer shall add (a) all money received by the county treasurer of his or her county on account of fines and licenses, (b) the proceeds from the sale of schoolhouses, sites, or other property of a school district, and (c) all unexpended balances of proceeds of taxes levied by a district when the district has been taken by the United States for any defense, flood control, irrigation, or war project.

(2) The sum total referred to in subsection (1) of this section shall be distributed to the several districts of the county pro rata according to the enumeration of those children who are five through eighteen years of age for

which the district is obligated to report on the census last returned by the districts.

**Source:** Laws 1881, c. 78, subdivision XI, § 4, p. 369; R.S.1913, § 6931; Laws 1915, c. 122, § 2, p. 281; Laws 1917, c. 127, § 1, p. 308; C.S.1922, § 6514; C.S.1929, § 79-2003; Laws 1943, c. 197, § 3, p. 664; R.S.1943, § 79-2003; Laws 1949, c. 265, § 1, p. 879; Laws 1949, c. 256, § 379, p. 818; Laws 1951, c. 276, § 12, p. 933; Laws 1953, c. 291, § 8, p. 992; Laws 1961, c. 409, § 1, p. 1227; Laws 1963, c. 493, § 2, p. 1576; Laws 1971, LB 1002, § 2; Laws 1977, LB 487, § 2; Laws 1985, LB 633, § 11; Laws 1990, LB 1090, § 24; Laws 1991, LB 511, § 62; Laws 1992, LB 245, § 67; R.S.1943, (1994), § 79-1304; Laws 1996, LB 900, § 683; Laws 1999, LB 272, § 97.

This section provides the basis for distribution of school fund. School Dist. No. 54 of Douglas County v. School Dist. of Omaha, 171 Neb. 769, 107 N.W.2d 744 (1961).

**79-1038 School funds; apportionment; formation of new district; when eligible.**

When a district is formed from other districts where during the preceding school year school has been kept open the term required by law, such new district will be held and deemed to have had school the lawful time and apportionment shall be made to it accordingly.

**Source:** Laws 1881, c. 78, subdivision XI, § 5, p. 370; R.S.1913, § 6932; C.S.1922, § 6515; C.S.1929, § 79-2004; R.S.1943, § 79-2004; Laws 1949, c. 256, § 380, p. 819; R.S.1943, (1994), § 79-1305; Laws 1996, LB 900, § 684.

**79-1039 School funds; apportionment; duties.**

After making the apportionment pursuant to section 79-1037, the county treasurer shall (1) enter the apportionment immediately in a book kept for that purpose, (2) furnish the secretary of each school district in the county a certificate showing the amount due such district, and (3) distribute the funds to each district in the amount due such district for its share of the apportionment.

**Source:** Laws 1881, c. 78, subdivision XI, § 7, p. 370; R.S.1913, § 6934; C.S.1922, § 6517; C.S.1929, § 79-2006; R.S.1943, § 79-2006; Laws 1949, c. 256, § 381, p. 820; Laws 1951, c. 288, § 1, p. 955; Laws 1989, LB 487, § 10; Laws 1990, LB 1090, § 25; R.S.1943, (1994), § 79-1306; Laws 1996, LB 900, § 685; Laws 1999, LB 272, § 98.

**79-1040 School funds; apportionment; county treasurer; no compensation allowed.**

County treasurers shall not charge for receiving and disbursing the school apportionment.

**Source:** Laws 1881, c. 78, subdivision XI, § 8, p. 370; R.S.1913, § 6935; C.S.1922, § 6518; C.S.1929, § 79-2007; R.S.1943, § 79-2007; Laws 1949, c. 256, § 382, p. 820; Laws 1990, LB 1090, § 26; R.S.1943, (1994), § 79-1307; Laws 1996, LB 900, § 686.

**79-1041 County treasurer; distribute school funds; when.**

Each county treasurer of a county with territory in a learning community shall distribute any funds collected by such county treasurer from the common general fund levy of such learning community to each member school district pursuant to section 79-1073 at least once each month.

Each county treasurer shall, upon request of a majority of the members of the school board or board of education in any school district, at least once each month distribute to the district any funds collected by such county treasurer for school purposes.

**Source:** Laws 1976, LB 803, § 1; R.S.1943, (1994), § 79-1307.01; Laws 1996, LB 900, § 687; Laws 2009, LB392, § 13; Laws 2016, LB1067, § 47.

**79-1042 School funds; embezzlement by school district treasurer.**

Except as provided by section 79-1043, school district treasurers shall not lend or use any part of the school money which may be in their hands under penalty of fine and imprisonment as provided regarding embezzlement under sections 28-509 to 28-518.

**Source:** Laws 1881, c. 78, subdivision XI, § 9, p. 370; R.S.1913, § 6936; C.S.1922, § 6519; C.S.1929, § 79-2008; R.S.1943, § 79-2008; Laws 1949, c. 256, § 383, p. 820; Laws 1959, c. 382, § 5, p. 1326; R.S.1943, (1994), § 79-1308; Laws 1996, LB 900, § 688.

**79-1043 School funds; investment; interest; repurchase agreements; securities; how held.**

(1) Any school district may, by and with the consent of the school board or board of education of the school district, invest the funds of the school district in securities the nature of which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another. Every school district having invested in such securities shall deliver the same as funds of the office. The interest received on any investments authorized by this section shall be credited to the fund from which the money was taken to make the investment.

(2) The securities referred to in subsection (1) of this section may be invested in through repurchase agreements. Each repurchase agreement shall require that the items purchased through the repurchase agreement be subject to repurchase from the school district upon demand by the treasurer of the school district. No such repurchase agreement shall be entered into until the treasurer of the school district who proposes to enter into the repurchase agreement has received a perfected security interest in the securities as collateral for their prompt repurchase.

(3) All securities referred to in this section or in the Class V School Employees Retirement Act may be held and evidenced by book entry account rather than through the holding and retaining of original certificates, indentures, or governing instruments for such securities.

**Source:** Laws 1957, c. 360, § 1, p. 1219; Laws 1971, LB 291, § 1; Laws 1987, LB 30, § 1; Laws 1989, LB 379, § 1; Laws 1994, LB 1310, § 12; R.S.1943, (1994), § 79-1308.01; Laws 1996, LB 900, § 689; Laws 1998, LB 497, § 28.

## Cross References

Class V School Employees Retirement Act, see section 79-978.01.

**79-1044 Forest reserve funds; distribution for schools and roads; how made.**

The forest reserve funds, annually paid into the state treasury by the United States Government under an act of Congress approved June 30, 1906, shall be distributed among the counties of the state entitled to such funds for the benefit of the public schools and the public roads of such counties based upon information provided by the United States Department of the Interior. The Commissioner of Education shall, on or before August 5, make apportionment of such funds to such counties according to the number of acres of forest reserve in each county and certify the apportionment of each county to the county treasurer of the proper county and to the Director of Administrative Services. The director shall make payments to the various counties for the amount specified by the commissioner.

**Source:** Laws 1907, c. 143, § 1, p. 453; R.S.1913, § 6938; C.S.1922, § 6521; C.S.1929, § 79-2010; R.S.1943, § 79-2010; Laws 1947, c. 284, § 1, p. 892; Laws 1949, c. 256, § 384, p. 820; R.S.1943, (1994), § 79-1309; Laws 1996, LB 900, § 690; Laws 1999, LB 272, § 99; Laws 2001, LB 797, § 33; Laws 2011, LB333, § 11; Laws 2021, LB509, § 16.

**79-1045 Forest reserve funds; apportionment; how made.**

The county treasurer shall, within twenty days after receiving the apportionment under section 79-1044, apportion the amount as follows: (1) To each school district lying wholly or partly within any such forest reserve, an amount equal to the actual per pupil cost for each pupil actually residing in that part of the district which is within such forest reserve, but this apportionment per pupil shall not exceed the average annual cost per pupil, based on average daily attendance within that county; and (2) of the remaining amount, one-fifth to the public road fund of the county, one-fifth equally to the several school districts in the county, and the remaining three-fifths to the several school districts in the county pro rata according to the enumeration of scholars last returned by the districts. The county treasurer shall, with the approval of the county board, have authority to retain the money to be allocated under this subdivision to Class I, II, or III school districts of the county to be used for the establishment and support of a county circulating library for Class I, II, or III school districts. A school district which has failed to sustain a school taught by a legally qualified teacher for the length of time required by law shall not be entitled to receive any portion of the Forest Reserve Fund.

**Source:** Laws 1907, c. 143, § 2, p. 453; R.S.1913, § 6939; C.S.1922, § 6522; C.S.1929, § 79-2011; R.S.1943, § 79-2011; Laws 1949, c. 256, § 385, p. 821; Laws 1953, c. 312, § 1, p. 1037; Laws 1963, c. 494, § 1, p. 1578; Laws 1965, c. 529, § 1, p. 1662; R.S.1943, (1994), § 79-1310; Laws 1996, LB 900, § 691; Laws 1999, LB 272, § 100; Laws 2018, LB377, § 66; Laws 2024, LB1329, § 73. Effective date July 19, 2024.

**79-1046 Forest reserve funds; apportionment; certification to districts.**

The county treasurer shall, immediately after making the apportionment under section 79-1044, (1) enter the apportionment in a book kept for that purpose, (2) furnish the secretary of each district in the county a certificate showing the amount due such district, and (3) distribute the funds to each district in the amount due such district for its share of the Forest Reserve Fund.

**Source:** Laws 1907, c. 143, § 3, p. 454; R.S.1913, § 6940; C.S.1922, § 6523; C.S.1929, § 79-2012; R.S.1943, § 79-2012; Laws 1949, c. 256, § 386, p. 821; R.S.1943, (1994), § 79-1311; Laws 1996, LB 900, § 692; Laws 1999, LB 272, § 101.

#### **79-1047 Public grazing funds; distribution to counties; how made.**

The public grazing funds, annually paid to the state treasury by the United States Government under the federal Taylor Grazing Act, 43 U.S.C. 315i, as such act existed on May 8, 2001, shall be distributed among the counties of the state entitled to such funds for the benefit of the school districts of such counties based upon information provided by the United States Department of the Interior. The Commissioner of Education shall, on or before August 5, make apportionment of such funds to such counties according to the number of acres of grazing land in each county and certify the apportionment of each county to the county treasurer of the proper county and to the Director of Administrative Services. The director shall make payments to the various counties for the amount so specified by the Commissioner of Education.

**Source:** Laws 1947, c. 300, § 1, p. 916; R.S.Supp.,1947, § 79-2013; Laws 1949, c. 256, § 387, p. 821; Laws 1951, c. 289, § 1, p. 956; R.S.1943, (1994), § 79-1312; Laws 1996, LB 900, § 693; Laws 1999, LB 272, § 102; Laws 2001, LB 797, § 34; Laws 2011, LB333, § 12; Laws 2021, LB509, § 17.

#### **79-1048 Public grazing funds; distribution.**

The county treasurer shall, within twenty days after receiving the apportionment under section 79-1047, distribute the funds to the school districts in the county from which the public grazing funds were derived in proportion to the respective acreage of grazing lands in each district within the county.

**Source:** Laws 1947, c. 300, § 2, p. 917; R.S.Supp.,1947, § 79-2014; Laws 1949, c. 266, § 1, p. 880; Laws 1949, c. 256, § 388, p. 822; R.S.1943, (1994), § 79-1313; Laws 1996, LB 900, § 694; Laws 1999, LB 272, § 103.

#### **79-1049 Flood control funds; distribution for schools and roads; how made.**

The funds paid to the State Treasurer by the United States Government under the federal Flood Control Act, 33 U.S.C. 701c-3, on account of the leasing of lands acquired by the United States for flood control purposes in the State of Nebraska, shall be distributed among the counties of the state entitled to the same for the benefit of the public schools and public roads of such counties.

**Source:** Laws 1949, c. 251, § 1, p. 683; R.S.1943, (1994), § 79-1315; Laws 1996, LB 900, § 695.

#### **79-1050 Flood control funds; counties entitled to share.**

The county in which the land described in section 79-1049 is situated on which lease rentals are paid shall be entitled to receive the lease rentals for the benefit of the public schools and public roads of the county. When the land is situated in more than one county, the distributive share to each county from the lease rentals shall be proportional to such land's area within the county.

**Source:** Laws 1949, c. 251, § 2, p. 683; R.S.1943, (1994), § 79-1316; Laws 1996, LB 900, § 696.

**79-1051 Flood control funds; apportionment by Commissioner of Education.**

The distribution of the funds received by the State Treasurer under section 79-1049 shall be made based upon information provided by the United States Department of the Interior. The Commissioner of Education shall, on or before August 5, make apportionment of such funds to the counties entitled thereto in accordance with section 79-1050 and certify the apportionment of each county to the county treasurer of the proper county and to the Director of Administrative Services. The director shall make payments to the various counties for the amount specified by the commissioner.

**Source:** Laws 1949, c. 251, § 3, p. 683; R.S.1943, (1994), § 79-1317; Laws 1996, LB 900, § 697; Laws 1999, LB 272, § 104; Laws 2001, LB 797, § 35; Laws 2011, LB333, § 13; Laws 2021, LB509, § 18.

**79-1052 Flood control funds; apportionment for schools and roads.**

The county treasurer shall, within twenty days after receiving the apportionment under section 79-1051, apportion the amount as follows: One-fifth of the whole amount to the public road fund of the county and the remaining four-fifths to the school districts in the county from which the rental was derived in proportion to the respective acreage of lands leased in each school district within the county by the United States Government which have been acquired for flood control purposes. The county treasurer shall determine the amount each district is to receive and make apportionment thereof.

**Source:** Laws 1949, c. 251, § 4, p. 684; R.S.1943, (1994), § 79-1318; Laws 1996, LB 900, § 698; Laws 1999, LB 272, § 105.

**79-1053 Flood control funds; certification to districts.**

The county treasurer shall, immediately after making the apportionment under section 79-1052, enter the apportionment in a book kept for that purpose. The county treasurer shall also furnish the school board secretary in each district in the county a certificate showing the amount due such district, which amount shall be subject to the order of the school district, through its proper officers, on the county treasurer.

**Source:** Laws 1949, c. 251, § 5, p. 684; R.S.1943, (1994), § 79-1319; Laws 1996, LB 900, § 699; Laws 1999, LB 272, § 106.

**79-1054 State Board of Education; establish grant programs; application; contents; department; duties; report; State Department of Education Improvement Grant Fund; created; use; investment.**

(1)(a) This subsection applies until July 1, 2024.

(b) The State Board of Education shall establish a competitive innovation grant program with funding from the Nebraska Education Improvement Fund

pursuant to section 79-3501. Grantees shall be a school district, an educational service unit, or a combination of entities that includes at least one school district or educational service unit. For grantees that consist of a combination of entities, a participating school district or educational service unit shall be designated to act as the fiscal agent and administer the program funded by the grant. The state board shall only award grants pursuant to applications that the state board deems to be sufficiently innovative and to have a high chance of success.

(c) An application for a grant pursuant to this subsection shall describe:

(i) Specific measurable objectives for improving education outcomes for early childhood students, elementary students, middle school students, or high school students or for improving the transitions between any successive stages of education or between education and the workforce;

(ii) The method for annually evaluating progress toward a measurable objective, with a summative evaluation of progress submitted to the state board and electronically to the Education Committee of the Legislature on or before July 1, 2019;

(iii) The potential for the project to be both scalable and replicable; and

(iv) Any cost savings that could be achieved by reductions in other programs if the funded program is successful.

(d) Based on evaluations received on or before July 1, 2019, for each grant, the State Board of Education shall recommend the grant project as:

(i) Representing a best practice;

(ii) A model for a state-supported program; or

(iii) A local issue for further study.

(e) On or before December 1, 2017, and on or before December 1 of each year thereafter, the state board shall electronically submit a report to the Clerk of the Legislature on all such grants, including, but not limited to, the results of the evaluations for each grant. The state board may adopt and promulgate rules and regulations to carry out this subsection, including, but not limited to, application procedures, selection procedures, and annual evaluation reporting procedures.

(2)(a) This subsection applies beginning July 1, 2024.

(b) The State Board of Education shall establish an improvement grant program in areas including, but not limited to, (i) teacher recruitment and retention, (ii) improvement for schools and school districts, (iii) improvement in student performance in the subject areas of reading and mathematics, and (iv) other improvement areas identified by the state board. Such grants shall be funded using lottery funds under section 79-3501.

(c) On or before December 1 of each calendar year, the state board shall electronically submit a report to the Clerk of the Legislature on all such grant programs, including, but not limited to, the recipients of the programs and evaluations of the effectiveness of each grant program. The state board may adopt and promulgate rules and regulations to carry out this subsection.

(3)(a) This subsection applies beginning January 1, 2024.

(b) For purposes of this subsection, learning platform means a three-dimensional, game-based learning platform for use by middle school and high school students.



(c)(i) The State Board of Education shall establish a grant program to procure or purchase an annual license for learning platforms for use in schools to engage students in coursework and careers in science, technology, engineering, and mathematics. Such grants shall be funded using lottery funds pursuant to section 79-3501.

(ii) The State Board of Education shall establish standards that a learning platform shall meet in the subject areas of chemistry, physical science, and mathematics. The state board shall develop the criteria to prioritize the grant applications.

(iii) A developer may apply to the Commissioner of Education in a manner prescribed by the state board for a grant under this subsection for a learning platform that:

(A) Is designed to teach information related to chemistry, physical science, or mathematics;

(B) Aligns with the standards established by the state board relating to chemistry, physical science, or mathematics;

(C) Connects such standards with real-world technologies and applications;

(D) Highlights science, technology, engineering, and mathematics career pathways in Nebraska; and

(E) Meets any additional requirements set out by the State Board of Education.

(iv) Any developer that receives a grant under this subsection shall provide access to and use of its learning platform to all Nebraska school districts.

(v) Any grant awarded pursuant to this subsection shall be awarded by July 1 of each year.

(d) On or before December 1 of each calendar year, the state board shall electronically submit a report to the Clerk of the Legislature on the grant program, including, but not limited to, the recipients of the program and evaluations of the effectiveness of the grant program. The State Board of Education may adopt and promulgate rules and regulations to carry out this subsection.

(4)(a) The State Department of Education Improvement Grant Fund is created. The fund shall be administered by the State Department of Education and shall consist of transfers pursuant to section 79-3501, repayments of grant funds, and interest payments received in the course of administering this section. The fund shall be used to carry out this section. Transfers may be made from the fund to the Education Future Fund at the direction of the Legislature. Any money in the State Department of Education Improvement Grant Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(b) Of the ten percent of funds transferred to the fund pursuant to section 79-3501, eight and three-fourths percent shall be used for improvement grants pursuant to subsection (3) of this section and the remaining one and one-fourth percent shall be used for grants pursuant to subsection (2) of this section.

**Source:** Laws 2015, LB519, § 2; Laws 2017, LB512, § 16; Laws 2022, LB852, § 3; Laws 2023, LB705, § 90; Laws 2024, LB1329, § 74; Laws 2024, LB1413, § 49.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB1329, section 74, with LB1413, section 49, to reflect all amendments.

**Note:** Changes made by LB1329 became effective July 19, 2024. Changes made by LB1413 became effective April 2, 2024.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

**Nebraska State Funds Investment Act**, see section 72-1260.

**79-1055 Repealed. Laws 1997, LB 347, § 59.**

**79-1056 Repealed. Laws 1997, LB 347, § 59.**

**79-1057 Repealed. Laws 1997, LB 347, § 59.**

**79-1058 Repealed. Laws 1997, LB 347, § 59.**

**79-1059 Repealed. Laws 1997, LB 347, § 59.**

**79-1060 Repealed. Laws 1997, LB 347, § 59.**

**79-1061 Repealed. Laws 1997, LB 347, § 59.**

**79-1062 Federal Mineral Leasing Act funds; disposition.**

All money paid semiannually to the State Treasurer by the United States Government under the federal Mineral Leasing Act shall be placed in the permanent school fund, subject to the laws governing such permanent school fund.

**Source:** Laws 1953, c. 260, § 1, p. 870; R.S.1943, (1994), § 79-1328; Laws 1996, LB 900, § 708.

**79-1063 State Department of Education Trust Fund; created; use; emergency cash fund; created; investment.**

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

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

with the provisions or directions of such will or instrument if such provisions or directions are not inconsistent with the laws of this state.

**Source:** Laws 1967, c. 528, § 1, p. 1752; Laws 1969, c. 584, § 81, p. 2394; Laws 1976, LB 758, § 1; Laws 1986, LB 1177, § 37; Laws 1995, LB 7, § 89; R.S.Supp.,1995, § 79-1345; Laws 1996, LB 900, § 709; Laws 1999, LB 813, § 29.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

**Nebraska State Funds Investment Act**, see section 72-1260.

**79-1064 State Department of Education Cash Fund; created; use; investment.**

The State Department of Education Cash Fund is created. Except as to other revenue the disposition of which is otherwise provided for, all sums of money received by the State Department of Education from the sale of goods and materiel, fees from any training program or services rendered, and any revenue such department may receive from any other source shall be remitted to the State Treasurer for credit to the State Department of Education Cash Fund. The State Treasurer shall disburse such amounts in the fund as are available and considered incident to the administration and operation of the State Department of Education. Money in the State Department of Education Cash Fund may be transferred to the General Fund at the direction of the Legislature. All disbursements for the State Department of Education Cash Fund shall be made upon vouchers issued by the State Department of Education and warrants drawn by the Director of Administrative Services. Any money in the State Department of Education Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1973, LB 544, § 1; Laws 1983, LB 469, § 5; R.S.1943, (1994), § 79-1346; Laws 1996, LB 900, § 710.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

**Nebraska State Funds Investment Act**, see section 72-1260.

**79-1065 Financial support to school districts; adjustments authorized; records.**

The State Department of Education shall adjust payments of state funds provided under Chapter 79 or federal funds provided under federal law to school districts which, after final determination, received funds not equal to the appropriate allocation for the previous school fiscal year such that the district will receive the funds to which it was finally determined to be entitled. If the total adjustment cannot be made from the funds to be provided in the current school fiscal year, the adjustment shall be prorated, with additional adjustments made to payments for future school fiscal years. The department shall maintain an accurate account and a record of the reasons the adjustments were made and the amount of such adjustments.

**Source:** Laws 1976, LB 903, § 10; Laws 1987, LB 367, § 68; Laws 1990, LB 1059, § 41; Laws 1991, LB 511, § 63; Laws 1992, LB 245,

§ 68; Laws 1992, LB 1001, § 30; R.S.1943, (1994), § 79-1369; Laws 1996, LB 900, § 711; Laws 1997, LB 710, § 20; Laws 1998, Spec. Sess., LB 1, § 38; Laws 2017, LB512, § 17.

**79-1065.01 Financial support to school districts; lump-sum payments.**

If the adjustment under section 79-1065 results in a school district being entitled to the payment of additional funds, the State Department of Education shall automatically make a lump-sum payment to the school district if the payment is less than one thousand dollars. For amounts equal to or greater than one thousand dollars, the district may apply to the State Department of Education for a lump-sum payment for any amount up to one hundred percent of the adjustment, except that when a school district is to receive a lump-sum payment pursuant to section 79-1022, one hundred percent of the adjustment shall be paid as one lump-sum payment on the last business day of December during the ensuing school fiscal year. The department 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 pursuant to section 79-1022. The department shall make such payment in a lump sum not later than the last business day of September of the year in which the final determination under this section is made.

**Source:** Laws 2000, LB 1213, § 2; Laws 2009, LB549, § 34; Laws 2016, LB1066, § 19.

**79-1065.02 State aid payments; payments of core services and technology infrastructure funds; adjustments; application; calculation.**

(1) State aid payments pursuant to the Tax Equity and Educational Opportunities Support Act and payments of core services and technology infrastructure funds pursuant to section 79-1241.03 shall be adjusted when property within the boundaries of a school district or educational service unit is transferred to another school district or educational service unit in response to annexation of the transferred property by a city or village.

(2)(a) For a school district to qualify for additional state aid pursuant to this section, the school district from which property is being transferred shall apply on a form prescribed by the State Department of Education on or before August 20 preceding the first school fiscal year for which the property will not be available for taxation for the school district's general fund levy.

(b) For an educational service unit to qualify for additional core services and technology infrastructure funds pursuant to this section, the educational service unit from which property is being transferred shall apply on a form prescribed by the State Department of Education on or before August 20 preceding the first school fiscal year for which the property will not be available for taxation for the educational service unit's general fund levy.

(3)(a) Upon receipt of an application from a school district, the department, with the assistance of the Property Tax Administrator, shall calculate the amount of additional state aid, if any, that the local system, as defined in section 79-1003, for the applicant school district would have received for such school fiscal year if the adjusted valuation for the transferred property had not been included in the adjusted valuation of such local system for the calculation of state aid for such school fiscal year. On or before September 20 of such school fiscal year, the department shall certify to the applicant school district

the amount of additional state aid, if any, such school district will receive. Except as otherwise provided in this subdivision, if such school district receives a lump-sum payment pursuant to subsection (2) of section 79-1022, such lump-sum payment shall be increased by the amount of additional state aid. Except as otherwise provided in this subdivision, if such school district does not receive a lump-sum payment pursuant to subsection (2) of section 79-1022, state aid payments shall be increased by one-tenth of the amount of additional state aid for each of the ten state aid payments for such school fiscal year. If a portion of the total reduction calculated pursuant to subdivision (4)(a) of this section for local systems receiving valuation in the transfer of property that is the subject of the application is delayed until future years, the additional state aid to be paid in the school fiscal year described in subdivision (2)(a) of this section shall be reduced by the amount of the total reduction that is delayed until future years. The amount of the reduction shall be paid as additional aid in the next school fiscal year.

(b) Upon receipt of an application from an educational service unit, the department, with the assistance of the Property Tax Administrator, shall calculate the amount of additional core services and technology infrastructure funds, if any, that such educational service unit would have received for such school fiscal year if the adjusted valuation for the transferred property had not been included in the adjusted valuation of such educational service unit for the calculation of core services and technology infrastructure funds for such school fiscal year. On or before September 20 of such school fiscal year, the department shall certify to the applicant educational service unit the amount of additional core services and technology infrastructure funds, if any, such educational service unit will receive. Except as otherwise provided in this subdivision, payments of core services and technology infrastructure funds shall be increased by one-tenth of the amount of any additional core services and technology infrastructure funds for each of the ten payments of core services and technology infrastructure funds for such school fiscal year. If a portion of the total reduction calculated pursuant to subdivision (4)(b) of this section for an educational service unit receiving valuation in the transfer of property that is the subject of the application is delayed until future years, the additional state aid or core services and technology infrastructure funds to be paid to the applicant educational service unit in the school fiscal year described in subdivision (2)(b) of this section shall be reduced by the amount of the total reduction that is delayed until future years. The amount of the reduction shall be paid as additional core services and technology infrastructure funds to such educational service unit in the next school fiscal year.

(4)(a) The state aid payments shall be reduced for the school districts of each receiving local system. An amount equal to the additional state aid calculated pursuant to subdivision (3)(a) of this section for the local system of an applicant school district shall be attributed to the local systems receiving valuation in such transfer based upon the ratio of the adjusted valuation received by each local system divided by the total adjusted valuation transferred from the applicant school district. For any school district of a receiving local system that receives a lump-sum payment pursuant to subsection (2) of section 79-1022, such lump-sum payment shall be reduced by the amount attributed to the receiving local system. For any school district of a receiving local system that does not receive a lump-sum payment pursuant to subsection (2) of section 79-1022, state aid payments shall be reduced by one-tenth of the amount

attributed to such receiving local system for each of the ten state aid payments for such school fiscal year. If the total reduction is greater than the total state aid payments for such school fiscal year, the remainder shall be subtracted from state aid payments in future school fiscal years until the total reduction has been subtracted from state aid payments. On or before September 20 of such school fiscal year, the department shall certify to each school district of the receiving local system the amount of the reduction in state aid.

(b) Core services and technology infrastructure funds shall be reduced for each receiving educational service unit. An amount equal to the additional core services and technology infrastructure funds calculated pursuant to subdivision (3)(b) of this section for the applicant educational service unit shall be attributed to the educational service units receiving valuation in such transfer based upon the ratio of the adjusted valuation received by each educational service unit divided by the total adjusted valuation transferred from the applicant educational service unit. Core services and technology infrastructure funds shall be reduced by one-tenth of the amount attributed to any such receiving educational service unit for each of the ten payments of core services and technology infrastructure funds for such school fiscal year. If the total reduction is greater than the total payments of core services and technology infrastructure funds for any such educational service unit for such school fiscal year, the remainder shall be subtracted from payments of core services and technology infrastructure funds in future school fiscal years until the total reduction has been subtracted from such payments. On or before September 20 of such school fiscal year, the department shall certify to the receiving educational service units the amount of the reduction in core services and technology infrastructure funds.

(5) For purposes of the final calculation of state aid for school districts pursuant to section 79-1065, the adjusted valuation of the property that was transferred shall also be transferred for purposes of adjusted valuation for the final calculation of state aid. For determining adjustments in state aid pursuant to section 79-1065, the final calculation of state aid shall be compared to the state aid certified for such school fiscal year combined with any adjustments in state aid payments and transfers from other districts pursuant to this section.

**Source:** Laws 2005, LB 198, § 1; Laws 2018, LB377, § 67; Laws 2021, LB528, § 38.

#### Cross References

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

#### **79-1066 School districts; financial support from an entity constructing an electric generating facility; legislative findings.**

All ratepayers of public power districts, public power and irrigation districts, municipalities, electric cooperatives, electric membership corporations, or other entities which construct electric generating facilities benefit from such construction, and due to the influx of large numbers of workers and their families during certain periods of such construction, residents in areas surrounding such electric generating facility sites may sustain additional tax burdens for the education of the workers' children. It is the public policy of this state that, in order to promote the general health, welfare, and quality of education, any public power district, public power and irrigation district, municipality, electric cooperative, electric membership corporation, or other

entity engaged in such construction may use its funds for the purpose of paying money to certain school districts as provided in sections 79-1066 to 79-1069 in order to alleviate the impact resulting from such construction, and any such use of funds is hereby determined to be for a public purpose.

**Source:** Laws 1981, LB 15, § 1; Laws 1985, LB 6, § 2; R.S.1943, (1994), § 79-1371; Laws 1996, LB 900, § 712.

**79-1067 School districts; entity constructing electric generating facility; payments authorized; amount.**

If either parent of a student attending public schools in any school district is employed in the construction of an electric generating facility, as determined by the school district within one hundred fifty days after commencement of the school year, the public power district, public power and irrigation district, municipality, electric cooperative, electric membership corporation, or other entity constructing and owning such facility may pay to any such impacted school district, upon written request with certified supporting information from such school district, an amount which shall not exceed the amount derived by (1) taking the total receipts of such school district from the local property tax levy for the preceding school fiscal year, less one-half of any amount included therein which is provided for the payment of servicing bonded indebtedness on any school facility, plus depreciation at the annual rate of three percent on any school facility, (2) dividing the total thereof by the average daily membership of resident students in such school district for the preceding school fiscal year, and (3) multiplying the resulting quotient by the number of children of such employees attending such school district in the current school fiscal year.

**Source:** Laws 1981, LB 15, § 2; Laws 1992, LB 1063, § 199; Laws 1992, Second Spec. Sess., LB 1, § 170; R.S.1943, (1994), § 79-1372; Laws 1996, LB 900, § 713; Laws 1998, Spec. Sess., LB 1, § 39.

**79-1068 School districts; entity constructing electric generating facility; retroactive payments authorized.**

For each school year commencing with the 1977-78 school year which has begun or has been completed prior to February 19, 1981, a public power district, public power and irrigation district, municipality, electric cooperative, electric membership corporation, or other entity subject to sections 79-1066 to 79-1069 may pay to any impacted school district, upon written request with certified supporting information from such school district within one hundred eighty days after February 19, 1981, an amount which shall not exceed the amount calculated in accordance with the formula set forth in section 79-1067 as applied to the applicable school year.

**Source:** Laws 1981, LB 15, § 3; Laws 1985, LB 6, § 3; R.S.1943, (1994), § 79-1373; Laws 1996, LB 900, § 714.

**79-1069 School districts; payments; conditions.**

Prior to any payment to an impacted school district as provided in sections 79-1066 to 79-1069, the governing body of the public power district, public power and irrigation district, municipality, electric cooperative, electric membership corporation, or other entity constructing and owning such electric generating facility shall find and determine that such payment will promote the general health, welfare, and quality of education and will be in the best

interests of the entity in its proprietary capacity and its relations with its employees, its contractors, and the public generally.

**Source:** Laws 1981, LB 15, § 4; Laws 1985, LB 6, § 4; R.S.1943, (1994), § 79-1374; Laws 1996, LB 900, § 715.

**79-1070 Power to borrow money; conditions; authorization to accept loans from state or federal government.**

(1) Any class of school district may borrow money to the amount of seventy percent of the unexpended balance of total anticipated receipts of the general fund, special building fund, bond fund, or qualified capital purpose undertaking fund for the current school fiscal year and the following school fiscal year. Total anticipated receipts of the general fund, special building fund, bond fund, or qualified capital purpose undertaking fund for the current school fiscal year and the following school fiscal year shall mean a sum equal to the total of (a) the anticipated receipts from the current existing levy multiplied by two, (b) the anticipated receipts from the United States for the current school fiscal year and the following school fiscal year, and (c) the anticipated receipts from other sources for the current school fiscal year and the following school fiscal year.

Any class of school district may execute and deliver in evidence thereof their promissory notes which they are hereby authorized and empowered to make and negotiate, bearing a rate of interest set by the school board and maturing not more than two school fiscal years from the date thereof. Such notes, before they are negotiated, shall be presented to the treasurer of the school district and registered by him or her and shall be payable out of the funds collected by such school district in the order of their registry after the payment of prior registered warrants but prior to the payment of any warrant subsequently registered, except that if both warrants and notes are registered, the total of such registered notes and warrants shall not exceed one hundred percent of the unexpended balance of the total anticipated receipts of the general fund, special building fund, bond fund, or qualified capital purpose undertaking fund of such district for the current school fiscal year and the following school fiscal year. For the purpose of making such calculation, such total anticipated receipts shall not include any anticipated receipts against which the school district has borrowed and issued notes pursuant to this section in either the current or the immediately preceding school fiscal year.

(2) In addition to the authority granted by subsection (1) of this section, such school districts may accept interest-free or low-interest loans from the state or federal government and may execute and deliver in evidence thereof their promissory notes maturing not more than twenty years from the date of execution.

(3) In addition to the authority granted by subsections (1) and (2) of this section, any class of school district may enter into loan agreements for the purpose of borrowing money from financial institutions, including banks, in amounts not in excess of seventy percent of the unexpended balance of their current existing levy. As evidence of such borrowing, a school district may execute and deliver one or more written loan agreements but shall not be required to execute and deliver separate promissory notes for each borrowing under such agreements. Money borrowed pursuant to such agreements shall bear interest at such rate or rates and shall become due and be repaid as provided in such agreements. Any such agreement shall provide for repayment



in full at least once each school fiscal year and shall be for a term not exceeding one school fiscal year. Any such agreement shall be registered upon books kept by the treasurer of the school district, and money borrowed pursuant to such agreement shall be paid out of funds collected upon the current existing levy prior to the payment of any warrant or note registered subsequent to any such loan agreement. If a school district has any such loan agreement or agreements outstanding and has warrants or notes registered, as described in subsection (1) of this section, the total amount (a) of borrowings pursuant to such loan agreement or agreements and (b) of registered notes and warrants shall not exceed one hundred percent of the unexpended balance of the current existing levy.

(4) Nothing in this section shall be construed to exempt a school district from the terms and conditions contained in sections 10-701 to 10-716.

**Source:** Laws 1931, c. 143, § 1, p. 391; Laws 1937, c. 176, § 7, p. 699; Laws 1941, c. 168, § 1, p. 666; C.S.Supp., 1941, § 79-2523; Laws 1943, c. 204, § 2, p. 679; R.S.1943, § 79-2531; Laws 1949, c. 256, § 207, p. 759; Laws 1967, c. 539, § 1, p. 1779; Laws 1969, c. 719, § 2, p. 2747; Laws 1969, c. 51, § 120, p. 347; Laws 1978, LB 596, § 1; Laws 1981, LB 441, § 2; Laws 1985, LB 587, § 1; R.S.1943, (1987), § 79-520; Laws 1991, LB 382, § 1; Laws 1992, LB 1001, § 31; R.S.1943, (1994), § 79-1384; Laws 1996, LB 900, § 716; Laws 1997, LB 710, § 21; Laws 1998, Spec. Sess., LB 1, § 40; Laws 2003, LB 67, § 20.

#### **79-1071 Power to borrow money; how construed.**

Section 79-1070 shall be independent of and in addition to any other provisions of the laws of the State of Nebraska, and such section shall not be considered amendatory of or limited by any other laws of the State of Nebraska. Such section does not prohibit or limit the issuance of notes or borrowing by school districts in accordance with any other applicable laws of the State of Nebraska if the school board or board of education determines to issue such notes or incur borrowings under such laws.

**Source:** Laws 1991, LB 382, § 2; R.S.1943, (1994), § 79-1385; Laws 1996, LB 900, § 717.

#### **79-1072 School district; contingency fund; authorized; use.**

The school board or board of education of any school district may establish a contingency fund for losses. Such contingency fund shall be established and maintained by transfers from the general fund of such school district as authorized by the school board or board of education of such school district. Disbursements from such contingency fund shall not exceed five percent of the total budgeted general fund expenditures of the school district and shall be used only for defense against losses, payment of losses, and transfer of funds to the general fund of such school district as authorized by the board.

**Source:** Laws 1989, LB 228, § 1; R.S.1943, (1994), § 79-546.01; Laws 1996, LB 900, § 718; Laws 2018, LB377, § 68.

#### **79-1072.01 Repealed. Laws 2006, LB 764, § 1.**

#### **79-1072.02 Repealed. Laws 2006, LB 764, § 1.**

**79-1072.03 Repealed. Referendum 2006, No. 422.**

**79-1072.04 Repealed. Referendum 2006, No. 422.**

(c) SCHOOL TAXATION

**79-1073 General fund property tax receipts; learning community coordinating council; certification; division; distribution; property tax refund or in lieu of property tax reimbursement; proportionality.**

On or before September 1 for each year prior to 2017, each learning community coordinating council shall determine the expected amounts to be distributed by the county treasurers to each member school district from general fund property tax receipts pursuant to subdivision (2)(b) of section 77-3442 and shall certify such amounts to each member school district, the county treasurer for each county containing territory in the learning community, and the State Department of Education. Such property tax receipts shall be divided among member school districts proportionally based on the difference of the school district's formula need calculated pursuant to section 79-1007.11 minus the sum of the state aid certified pursuant to section 79-1022 and the other actual receipts included in local system formula resources pursuant to section 79-1018.01 for the school fiscal year for which the distribution is being made.

Each time the county treasurer distributes property tax receipts from the common general fund levy to member school districts, the amount to be distributed to each district shall be proportional based on the total amounts to be distributed to each member school district for the school fiscal year. Each time the county treasurer certifies a property tax refund pursuant to section 77-1736.06 based on the common general fund levy for member school districts or any entity issues an in lieu of property tax reimbursement based on the common general fund levy for member school districts, including amounts paid pursuant to sections 70-651.01 and 79-1036, the amount to be certified or reimbursed to each district shall be proportional on the same basis as property tax receipts from such levy are distributed to member school districts.

**Source:** Laws 2006, LB 1024, § 93; Laws 2007, LB641, § 29; Laws 2008, LB988, § 49; Laws 2008, LB1154, § 11; Laws 2009, LB392, § 14; Laws 2009, LB545, § 23; Laws 2010, LB1070, § 9; Laws 2016, LB1067, § 48.

Because the levy authorized under this section benefits all taxpayers in a learning community, which is the relevant taxing district, this section does not violate the constitutional prohibition in Neb. Const. art. VIII, sec. 4, against a commutation of taxes. *Sarpy Cty. Farm Bureau v. Learning Community*, 283 Neb. 212, 808 N.W.2d 598 (2012).

Because the levy distributed under this section is uniform throughout the entire learning community, which is the relevant

taxing district, this section does not violate the uniformity clause in Neb. Const. art. VIII, sec. 1. *Sarpy Cty. Farm Bureau v. Learning Community*, 283 Neb. 212, 808 N.W.2d 598 (2012).

This section was enacted for substantially local purposes, and therefore, it does not violate the prohibition in Neb. Const. art. VIII, sec. 1A, against a property tax for a state purpose. *Sarpy Cty. Farm Bureau v. Learning Community*, 283 Neb. 212, 808 N.W.2d 598 (2012).

**79-1073.01 Repealed. Laws 2016, LB1067, § 70.**

**79-1074 School district or learning community; taxable property; certification.**

The county clerk of any county in which a part of a school district or learning community is located shall, on or before the date prescribed in subsection (1) of section 13-509, certify the taxable valuation of all taxable property of such part

of the school district or learning community to the clerk of the headquarters county in which the schoolhouse or the administrative office of the school district or learning community is located.

**Source:** Laws 1907, c. 118, § 1, p. 398; Laws 1913, c. 6, § 1, p. 64; R.S.1913, § 6741; C.S.1922, § 6282; C.S.1929, § 79-214; R.S. 1943, § 79-213; Laws 1947, c. 272, § 1, p. 876; Laws 1949, c. 256, § 72, p. 717; Laws 1979, LB 187, § 228; Laws 1992, LB 719A, § 184; Laws 1992, LB 1001, § 14; Laws 1993, LB 348, § 15; R.S.1943, (1994), § 79-433; Laws 1996, LB 900, § 720; Laws 2006, LB 1024, § 95; Laws 2019, LB524, § 2; Laws 2021, LB528, § 39.

**79-1075 School district; tax levy; certification.**

The county board of the county in which is located the administrative office of any school district shall make a levy for the school district as may be necessary, and the county clerk of that headquarters county shall certify the levy, on or before the date prescribed in section 77-1601, to the county clerk of each county in which is situated any portion of the school district. This section shall apply to all taxes levied on behalf of school districts, including, but not limited to, taxes authorized by sections 10-304, 10-711, 77-1601, 79-747, 79-1084, 79-1085, 79-1086, 79-10,100, 79-10,110, 79-10,110.02, 79-10,118, 79-10,120, and 79-10,126.

**Source:** Laws 1907, c. 118, § 2, p. 398; Laws 1913, c. 6, § 2, p. 64; R.S.1913, § 6742; C.S.1922, § 6283; C.S.1929, § 79-215; R.S. 1943, § 79-214; Laws 1949, c. 256, § 73, p. 717; Laws 1971, LB 292, § 7; Laws 1992, LB 1001, § 15; Laws 1993, LB 348, § 16; R.S.1943, (1994), § 79-434; Laws 1996, LB 900, § 721; Laws 2001, LB 711, § 17; Laws 2006, LB 1024, § 96; Laws 2016, LB 959, § 8; Laws 2016, LB1067, § 49; Laws 2018, LB377, § 69; Laws 2021, LB528, § 40.

**Cross References**

For joint recreation facilities in conjunction with city of the second class, see sections 17-156 to 17-162.

**79-1076 Repealed. Laws 2001, LB 797, § 55.**

**79-1077 Repealed. Laws 2018, LB377, § 87.**

**79-1078 Repealed. Laws 2018, LB377, § 87.**

**79-1079 City of the metropolitan class; school district boundaries extended; tax levy; effect.**

If the school district boundaries of a school district of a city of the metropolitan class extend outside the city, such part of the school district shall have its tax levy extended upon the county tax list, in the manner provided for in other school districts of the county, outside the school district of such city. Such taxes shall be paid to the county treasurer at the same time that other school district taxes are paid.

**Source:** Laws 1996, LB 900, § 725.

**79-1080 Class IV and V school districts; school tax; how payable.**

All taxes collected for the benefit of the public schools in Class IV and V school districts shall be paid in money and shall be subject to the order of the board of education.

**Source:** Laws 1891, c. 45, § 23, p. 325; R.S.1913, § 7029; C.S.1922, § 6660; C.S.1929, § 79-2723; R.S.1943, § 79-2726; Laws 1949, c. 256, § 225, p. 765; R.S.1943, (1994), § 79-538; Laws 1996, LB 900, § 726.

**79-1081 Class IV school district; school tax; purposes enumerated; tax levy; restriction.**

The tax for bond interest for a Class IV school district shall in no one year exceed such amount as will, with the balance on hand in such fund, be sufficient to pay the bond interest as it becomes due. The tax for the bond sinking fund shall not exceed a sum sufficient to pay the principal of such bonds as it becomes due or to pay each year such number of the bonds as will retire them all at or before their maturity. The amount of tax levied for the retirement plan fund and for general school purposes shall be without restriction, except that the aggregate school tax levy for all purposes shall not in any one year exceed such rate as shall be necessary to provide the sums reported in the estimate returned in accordance with section 79-1085. The amount of tax levied for the building and equipment fund shall not in any one year exceed fourteen cents on each one hundred dollars within the limits provided in section 77-3442.

**Source:** Laws 1917, c. 225, § 21, p. 555; Laws 1919, c. 150, § 2, p. 336; Laws 1921, c. 83, § 2, p. 298; C.S.1922, § 6630; Laws 1923, c. 65, § 1, p. 195; C.S.1929, § 79-2621; Laws 1931, c. 144, § 1, p. 393; Laws 1937, c. 176, § 8, p. 701; C.S.Supp.,1941, § 79-2621; R.S. 1943, § 79-2621; Laws 1947, c. 295, § 1, p. 909; Laws 1949, c. 270, § 1, p. 886; Laws 1949, c. 256, § 247, p. 774; Laws 1951, c. 283, § 1, p. 949; Laws 1953, c. 306, § 1, p. 1021; Laws 1953, c. 287, § 85, p. 979; Laws 1955, c. 318, § 1, p. 983; Laws 1957, c. 353, § 2, p. 1200; Laws 1959, c. 405, § 1, p. 1367; Laws 1963, c. 489, § 3, p. 1562; Laws 1967, c. 543, § 1, p. 1785; Laws 1979, LB 187, § 239; R.S.1943, (1994), § 79-904; Laws 1996, LB 900, § 727; Laws 2000, LB 968, § 82.

**79-1082 Class V school district; school tax; levy.**

The aggregate school tax for a Class V school district, including the levy for the site and building fund as authorized by section 79-10,126, shall be subject to the limits provided in section 77-3442.

**Source:** Laws 1891, c. 45, § 22, p. 325; R.S.1913, § 7028; Laws 1915, c. 126, § 1, p. 286; Laws 1917, c. 130, § 1, p. 311; Laws 1919, c. 147, § 1, p. 329; Laws 1921, c. 72, § 1, p. 271; C.S.1922, § 6659; C.S.1929, § 79-2722; Laws 1937, c. 176, § 6, p. 696; Laws 1939, c. 112, § 1, p. 485; C.S.Supp.,1941, § 79-2723; R.S.1943, § 79-2723; Laws 1945, c. 214, § 2, p. 629; Laws 1947, c. 298, § 2, p. 914; Laws 1949, c. 256, § 265, p. 780; Laws 1951, c. 285, § 1, p. 951; Laws 1953, c. 307, § 1, p. 1023; Laws 1955, c. 320, § 2, p.

989; Laws 1959, c. 407, § 1, p. 1370; R.S.1943, (1994), § 79-1007.01; Laws 1996, LB 900, § 728; Laws 2000, LB 968, § 83; Laws 2001, LB 711, § 18; Laws 2003, LB 292, § 16.

(d) SCHOOL BUDGETS AND ACCOUNTING

**79-1083 School tax; adopted budget statement; delivery; to whom.**

At the time the budget statement is certified to the levying board, each school board shall deliver to the county clerk of the headquarters county a copy of its adopted budget statement. If the school district is a member of a learning community, the school board shall also deliver to the learning community coordinating council a copy of the adopted budget statement for school fiscal years prior to school fiscal year 2017-18.

**Source:** Laws 1881, c. 78, subdivision V, § 2, p. 352; Laws 1889, c. 78, § 14, p. 549; R.S.1913, § 6782; C.S.1922, § 6323; C.S.1929, § 79-502; R.S.1943, § 79-502; Laws 1949, c. 256, § 74, p. 717; Laws 1955, c. 312, § 2, p. 964; Laws 1969, c. 714, § 1, p. 2740; Laws 1969, c. 50, § 3, p. 270; Laws 1969, c. 145, § 43, p. 699; Laws 1993, LB 348, § 17; R.S.1943, (1994), § 79-435; Laws 1996, LB 900, § 729; Laws 1999, LB 272, § 110; Laws 2006, LB 1024, § 97; Laws 2016, LB1067, § 50.

Board of equalization determines amount of levy necessary to raise funds requested by school district in budget. State ex rel. School Dist. of City of Grand Island v. Board of Equalization, 166 Neb. 785, 90 N.W.2d 421 (1958).

Mandamus will lie to compel moderator to sign report. State ex rel. Percival v. Studheit, 11 Neb. 359, 9 N.W. 559 (1881).

Taxes should be levied upon district as it existed at time of levy, not at time of vote. School Dist. No. 9 of Hamilton County v. School Dist. No. 6 of Hamilton County, 9 Neb. 331, 2 N.W. 712 (1879).

**79-1083.01 Reductions in school district budget; legislative intent.**

It is the intent of the Legislature that any reductions in a school district budget, made to comply with the budget limitation in the Tax Equity and Educational Opportunities Support Act, affect classroom expenses as a last resort.

**Source:** Laws 1996, LB 299, § 6.

**Cross References**

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

**79-1083.02 Repealed. Laws 2018, LB377, § 87.**

**79-1083.03 Repealed. Laws 2011, LB 235, § 26.**

**79-1084 Class I, II, or III school district; school board; budget; tax; levy; publication of expenditures; violation; penalty; duty of county board.**

The school board of a Class I, II, or III school district shall annually, on or before September 30, report in writing to the county board and, for years prior to 2017, the learning community coordinating council if the school district is a member of a learning community the entire revenue raised by taxation and all other sources and received by the school board for the previous school fiscal year and a budget for the ensuing school fiscal year broken down generally as follows: (1) The amount of funds required for the support of the schools during the ensuing school fiscal year; (2) the amount of funds required for the purchase of school sites; (3) the amount of funds required for the erection of school buildings; (4) the amount of funds required for the payment of interest

upon all bonds issued for school purposes; and (5) the amount of funds required for the creation of a sinking fund for the payment of such indebtedness. The secretary shall publish, within ten days after the filing of such budget, a copy of the fund summary pages of the budget one time at the legal rate prescribed for the publication of legal notices in a legal newspaper published in and of general circulation in such city or village or, if none is published in such city or village, in a legal newspaper of general circulation in the city or village. The secretary of the school board failing or neglecting to comply with this section shall be deemed guilty of a Class V misdemeanor and, in the discretion of the court, the judgment of conviction may provide for the removal from office of such secretary for such failure or neglect. For Class I, II, or III school districts that are not members of a learning community, the county board shall levy and collect such taxes as are necessary to provide the amount of revenue from property taxes as indicated by all the data contained in the budget and the certificate prescribed by this section, at the time and in the manner provided in section 77-1601.

**Source:** Laws 1881, c. 78, subdivision XIV, § 23, p. 385; Laws 1885, c. 80, § 1, p. 329; Laws 1893, c. 31, § 2, p. 358; R.S.1913, § 6670; C.S.1922, § 6604; C.S.1929, § 79-2522; R.S.1943, § 79-2527; Laws 1947, c. 292, § 1, p. 904; Laws 1949, c. 256, § 243, p. 771; Laws 1959, c. 404, § 1, p. 1366; Laws 1972, LB 1070, § 2; Laws 1986, LB 960, § 42; Laws 1988, LB 1193, § 1; Laws 1993, LB 734, § 51; Laws 1995, LB 452, § 32; R.S.Supp.,1995, § 79-810; Laws 1996, LB 900, § 730; Laws 1997, LB 710, § 22; Laws 1998, Spec. Sess., LB 1, § 43; Laws 2006, LB 1024, § 98; Laws 2009, LB549, § 35; Laws 2016, LB1067, § 51; Laws 2021, LB644, § 24; Laws 2024, LB1329, § 75.  
Effective date July 19, 2024.

#### Cross References

For legal rate for publications, see section 33-141.

Act creating Court of Industrial Relations is not amendatory of this section. *Orleans Education Assn. v. School Dist. of Orleans*, 193 Neb. 675, 229 N.W.2d 172 (1975).

Class III school district did not have authority to enter into a lease-purchase agreement of a school building. *Haschke v. School Dist. of Humphrey*, 184 Neb. 298, 167 N.W.2d 79 (1969).

Power of a Class III school district to raise money for general school purposes is set forth in this section. *State ex rel. School Dist. of City of Grand Island v. Board of Equalization*, 166 Neb. 785, 90 N.W.2d 421 (1958).

#### **79-1085 Class IV school district; board of education; budget estimate and statement; tax levy; authorized.**

The board of education of a Class IV school district, on or before September 30 of each year, shall make or cause to be made and report to the county board an estimate of the amount of funds required for the fiscal year next ensuing: (1) For the payment of interest on bonds issued by the district; (2) to provide a sinking fund for the payment of bonds issued by the district; (3) to provide for the purchase and betterment of school sites and the remodeling, erection, and equipment, but not replacement, of buildings, new and old; (4) to provide the necessary funds, premiums, contributions, and expenses in connection with a retirement, annuity, insurance, or other benefit plan adopted by the board of education for its present and future employees after their retirement, or any reasonable classification thereof; and (5) to provide for the support of schools, being the running expenses and miscellaneous and all other expenses for such year.

The estimate shall be accompanied by a budget statement prepared in accordance with good accounting practices and showing probable revenue from all sources, expenditures, and available balances upon which such estimate was based. The estimate and the budget statement may include such items as the board of education deems necessary to maintain adequate working balances of cash at all times and to take into account the expenses and delays in the collection of taxes. The county board shall levy the rate of tax necessary to provide the amounts so reported by the board of education and collect such taxes in like manner as other taxes are levied and collected.

**Source:** Laws 1917, c. 225, § 20, p. 554; Laws 1921, c. 83, § 1, p. 297; C.S.1922, § 6629; C.S.1929, § 79-2620; R.S.1943, § 79-2620; Laws 1949, c. 256, § 246, p. 773; Laws 1957, c. 353, § 1, p. 1199; Laws 1963, c. 489, § 2, p. 1562; Laws 1972, LB 1070, § 3; Laws 1979, LB 187, § 238; Laws 1988, LB 1193, § 2; Laws 1992, LB 1063, § 197; Laws 1992, Second Spec. Sess., LB 1, § 168; Laws 1993, LB 734, § 52; Laws 1995, LB 452, § 33; R.S. Supp., 1995, § 79-903; Laws 1996, LB 900, § 731; Laws 2021, LB644, § 25.

**79-1086 Class V school district; board of education; budget; how prepared; certification of levy; levy of taxes.**

(1) The board of education of a Class V school district that is not a member of a learning community shall annually during the month of July estimate the amount of resources likely to be received for school purposes, including the amounts available from fines, licenses, and other sources. Before the county board of equalization makes its levy each year, the board of education shall report to the county clerk the rate of tax deemed necessary to be levied upon the taxable value of all the taxable property of the district subject to taxation during the fiscal year next ensuing for (a) the support of the schools, (b) the purchase of school sites, (c) the erection, alteration, equipping, and furnishing of school buildings and additions to school buildings, (d) the payment of interest upon all bonds issued for school purposes, and (e) the creation of a sinking fund for the payment of such indebtedness. The county board of equalization shall levy the rate of tax so reported and demanded by the board of education and collect the tax in the same manner as other taxes are levied and collected.

(2) The school board of a Class V school district that is a member of a learning community shall annually, on or before September 20 of each year prior to 2017, report in writing to the county board and the learning community coordinating council the entire revenue raised by taxation and all other sources and received by the school board for the previous school fiscal year and a budget for the ensuing school fiscal year broken down generally as follows: (a) The amount of funds required for the support of the schools during the ensuing school fiscal year; (b) the amount of funds required for the purchase of school sites; (c) the amount of funds required for the erection of school buildings; (d) the amount of funds required for the payment of interest upon all bonds issued for school purposes; and (e) the amount of funds required for the creation of a sinking fund for the payment of such indebtedness. The secretary shall publish, within ten days after the filing of such budget, a copy of the fund summary pages of the budget one time at the legal rate prescribed for the publication of legal notices in a legal newspaper published in and of general circulation in such city or village or, if none is published in such city or village,

in a legal newspaper of general circulation in the city or village. The secretary of the school board failing or neglecting to comply with this section shall be deemed guilty of a Class V misdemeanor and, in the discretion of the court, the judgment of conviction may provide for the removal from office of such secretary for such failure or neglect.

**Source:** Laws 1891, c. 45, § 21, p. 325; Laws 1899, c. 68, § 1, p. 299; R.S.1913, § 7027; C.S.1922, § 6658; C.S.1929, § 79-2721; Laws 1931, c. 146, § 1, p. 400; Laws 1937, c. 183, § 1, p. 722; C.S.Supp.,1941, § 79-2721; R.S.1943, § 79-2722; Laws 1945, c. 214, § 1, p. 628; Laws 1947, c. 298, § 1, p. 913; Laws 1949, c. 271, § 4, p. 889; Laws 1949, c. 256, § 264, p. 780; Laws 1955, c. 320, § 1, p. 989; Laws 1976, LB 757, § 2; Laws 1979, LB 187, § 240; Laws 1992, LB 1063, § 198; Laws 1992, Second Spec. Sess., LB 1, § 169; R.S.1943, (1994), § 79-1007; Laws 1996, LB 900, § 732; Laws 2006, LB 1024, § 99; Laws 2009, LB549, § 36; Laws 2016, LB1067, § 52.

The county board of equalization makes the levy of taxes for a school district. *C. R. T. Corp. v. Board of Equalization*, 172 Neb. 540, 110 N.W.2d 194 (1961).

**79-1087 Class V school district; board of education; bonds; interest and sinking fund; investment.**

The board of education of a Class V school district shall provide for the interest on all existing bonds issued by the district before the interest becomes due. The board shall also, immediately after the expiration of one-half of the time for which such bonds are issued, proceed to set apart each year, for a sinking fund, a requisite amount or proportion sufficient to pay the principal of the bonds when they become due. All money set apart for the sinking fund shall be invested as follows:

- (1) In the purchase of and redemption of bonds of the school district, which bonds shall be purchased in the open market in such manner as the board of education prescribes;
- (2) In bonds of the city constituting the school district;
- (3) In bonds of the county in which such district is situated;
- (4) In bonds of the State of Nebraska; and
- (5) In United States bonds.

**Source:** Laws 1891, c. 45, § 26, p. 327; R.S.1913, § 7032; C.S.1922, § 6663; C.S.1929, § 79-2726; Laws 1937, c. 183, § 3, p. 724; C.S.Supp.,1941, § 79-2726; R.S.1943, § 79-2730; Laws 1945, c. 214, § 4, p. 630; Laws 1949, c. 256, § 267, p. 781; R.S.1943, (1994), § 79-1007.03; Laws 1996, LB 900, § 733.

The county board of equalization makes the levy of taxes for a school district. *C. R. T. Corp. v. Board of Equalization*, 172 Neb. 540, 110 N.W.2d 194 (1961).

**79-1088 School districts; uniform system of accounting; duty of State Department of Education to prescribe.**



The State Department of Education shall prescribe a uniform system of accounting to which all public school districts in the State of Nebraska shall adhere.

**Source:** Laws 1921, c. 59, § 1, p. 242; C.S.1922, § 6546; C.S.1929, § 79-2122; R.S.1943, § 79-2131; Laws 1949, c. 256, § 179, p. 750; R.S.1943, (1994), § 79-4,141; Laws 1996, LB 900, § 734.

**79-1089 Audit by public accountant or certified public accountant; report; failure to comply; effect.**

In each school district the school board shall cause to be examined annually by a public accountant or by a certified public accountant all financial records which are maintained directly or indirectly in the administration and management of public school funds. Rules and regulations governing the scope, extent, pattern, and report of the examination shall be adopted and promulgated by the State Board of Education with the advice and counsel of the Auditor of Public Accounts. A copy of the report shall be filed with the Commissioner of Education and the Auditor of Public Accounts on or before November 5. When any school district fails to comply with this section, the commissioner shall, after notice to the district and an opportunity to be heard, direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the district has complied with this section. In addition, the commissioner shall direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county treasurer of compliance by the district with this section. The county treasurer shall withhold such money. If the school district does not comply with this section prior to the end of the state's biennium following the biennium which included the fiscal year for which state aid was calculated, the state aid funds shall revert to the General Fund. The amount of any reverted funds shall be included in data provided to the Governor in accordance with section 79-1031.

**Source:** Laws 1963, c. 464, § 1, p. 1492; Laws 1979, LB 414, § 3; R.S.1943, (1987), § 79-546; Laws 1988, LB 970, § 2; Laws 1989, LB 487, § 6; Laws 1992, LB 119, § 1; Laws 1992, LB 1001, § 18; R.S.1943, (1994), § 79-4,141.01; Laws 1996, LB 900, § 735; Laws 1997, LB 710, § 23; Laws 1999, LB 149, § 18; Laws 1999, LB 272, § 111; Laws 2001, LB 797, § 40; Laws 2018, LB377, § 70.

**Cross References**

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

**79-1090 Failure to approve budget; superintendent; duties.**

When a school board of any class of school district fails to approve a school district budget on or before the date required by subsection (1) of section 13-508, the superintendent of the school district shall prepare and file a budget document in accordance with the Nebraska Budget Act for the school district's general fund and for each other fund for which the district budgeted in the immediately preceding fiscal year. The document shall use the total budget of expenditures and cash reserves from the immediately preceding school fiscal year, except that in no case shall the budget of expenditures or cash reserves exceed any limits prescribed in the Tax Equity and Educational Opportunities

Support Act or other state laws. The superintendent shall also estimate the revenue from sources other than property tax for each fund in accordance with subdivision (1)(c) of section 13-504 and section 79-1022.

**Source:** Laws 1989, LB 487, § 7; Laws 1991, LB 511, § 45; Laws 1992, LB 245, § 50; Laws 1994, LB 1310, § 5; R.S.1943, (1994), § 79-4,159; Laws 1996, LB 900, § 736; Laws 1998, Spec. Sess., LB 1, § 44; Laws 1999, LB 272, § 112; Laws 1999, LB 813, § 33; Laws 2018, LB377, § 71.

**Cross References**

Nebraska Budget Act, see section 13-501.

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

**79-1091 School district; fiscal year.**

The fiscal year of each school district shall commence on September 1 in each year and end on August 31 of each year.

**Source:** Laws 1969, c. 706, § 1, p. 2708; R.S.1943, (1994), § 79-810.01; Laws 1996, LB 900, § 737.

**Cross References**

Fiscal year for purposes of the Special Education Act, see section 79-1143.

**79-1092 Cities changing classification; school funds; to whom payable; how used.**

All money arising from any source whatever which is payable to the school fund of any city of the primary class or city of the first class which may become a city of the metropolitan class, or any money which is required to be set apart by the treasurer of any such city for the support and maintenance of any school in such city, shall be payable to the treasurer of the school district and shall be used only for the purposes specified in sections 79-409, 79-476, 79-522, 79-535 to 79-537, 79-552, 79-561, 79-562, 79-567, 79-573, 79-574, 79-583, 79-584, 79-592, 79-593, 79-1086, 79-1087, 79-1092, and 79-10,126.

**Source:** Laws 1891, c. 45, § 28, p. 328; R.S.1913, § 7034; C.S.1922, § 6665; C.S.1929, § 79-2728; R.S.1943, § 79-2732; Laws 1949, c. 256, § 268, p. 781; R.S.1943, (1994), § 79-1007.04; Laws 1996, LB 900, § 738; Laws 2001, LB 797, § 41.

**79-1093 Class I, II, III, IV, or V school district; machine accounting and payroll processing; disbursing of funds; board of education; contract.**

(1) The board of education of a Class I, II, III, IV, or V school district may contract for (a) machine accounting and payroll processing services, (b) disbursing school funds as ordered by the board of education, (c) paying net salaries or wages earned by professional and other personnel employed by the board of education, (d) remitting to appropriate collection agencies sums withheld from salaries and wages, and (e) any other computerized service which the board of education deems necessary or desirable. Payment of salaries and wages as provided in this section shall be made to the employee in bank credit or cash, as the employee may specify.

(2) The bank or fiscal agent under contract as provided in this section shall furnish to the board of education a report at the end of each month detailing (a) the sums received for deposit in the school district account, (b) the amount

disbursed to payees as designated by the secretary or authorized clerk of the board of education, and (c) the unexpended balance in the school district account. This section does not modify, limit, waive, or abrogate the responsibility and the liability of the contracting board of education for the security and safe custody of school funds as required by law or for their proper use and application to school district indebtedness as provided by law.

**Source:** Laws 1967, c. 510, § 1, p. 1712; R.S.1943, (1994), § 79-543.01; Laws 1996, LB 900, § 739; Laws 2024, LB1329, § 76.  
Effective date July 19, 2024.

(e) SITE AND FACILITIES ACQUISITION,  
MAINTENANCE, AND DISPOSITION

**79-1094 District maintaining more than one school; closing, when authorized.**

The school board of any district maintaining more than one school may close any school or schools within such district and may make provision for the education of children either in another school of the district, in the school of any other district, or by correspondence instruction for such children as may be physically incapacitated for traveling to or attending other schools, with the permission of the parent.

**Source:** Laws 1939, c. 113, § 1, p. 488; C.S.Supp.,1941, § 79-218; R.S. 1943, § 79-223; Laws 1949, c. 256, § 108, p. 727; R.S.1943, (1994), § 79-469; Laws 1996, LB 900, § 740; Laws 1999, LB 272, § 113.

This section does not apply to school district having first class city within its boundaries. State ex rel. Strange v. School District of Nebraska City, 150 Neb. 109, 33 N.W.2d 358 (1948).

The school board of any district maintaining more than one school may close any school or schools within the district.

Haskell v. Madison Cty. Sch. Dist. No. 0001, 17 Neb. App. 669, 771 N.W.2d 156 (2009).

**79-1095 Eminent domain; power of district to exercise.**

Every school district shall have power to exercise the right of eminent domain. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

**Source:** Laws 1921, c. 51, § 1, p. 222; C.S.1922, § 6486; C.S.1929, § 79-1701; R.S.1943, § 79-1701; Laws 1949, c. 256, § 145, p. 742; Laws 1951, c. 101, § 119, p. 503; R.S.1943, (1994), § 79-4,107; Laws 1996, LB 900, § 741.

A school district has the power of eminent domain, and the only legislative restrictions limit the school site to fifty acres, and public parks and fairgrounds may not be condemned.

Father Flanagan's Boys' Home v. Millard School Dist., 196 Neb. 299, 242 N.W.2d 637 (1976).

**79-1096 Eminent domain; amount and character of land authorized to be taken; public hearing; notice.**

Not more than fifty acres for a school site may be taken under the provisions of section 79-1095. Public parks and county or district fairgrounds shall not be subject to be so taken. A public hearing shall be held on the question of such taking. Notice of such public hearing shall be given once each week for three successive weeks prior to the hearing in a legal newspaper published in or of

general circulation in the county. Such notice shall include the purpose and location of the hearing.

**Source:** Laws 1921, c. 51, § 8, p. 224; C.S.1922, § 6493; C.S.1929, § 79-1708; R.S.1943, § 79-1708; Laws 1949, c. 256, § 152, p. 744; Laws 1951, c. 101, § 120, p. 503; Laws 1951, c. 295, § 1, p. 975; Laws 1953, c. 318, § 1, p. 1051; Laws 1959, c. 382, § 3, p. 1325; Laws 1973, LB 252, § 1; R.S.1943, (1994), § 79-4,114; Laws 1996, LB 900, § 742.

Where publication and notice requirements of the public hearing required were not strictly complied with, plaintiffs are nevertheless precluded from bringing an action to contest the validity of the proceedings where plaintiffs have received and accepted their eminent domain award. *Duffey v. School Dist. No. One of Washington County*, 200 Neb. 702, 265 N.W.2d 212 (1978).

A school district has the power of eminent domain, and the only legislative restrictions limit the school site to fifty acres, and public parks and fairgrounds may not be condemned. *Father Flanagan's Boys' Home v. Millard School Dist.*, 196 Neb. 299, 242 N.W.2d 637 (1976).

**79-1097 Eminent domain; location upon state school land; authority of district to purchase.**

When a school district desires to locate a schoolhouse on school lands belonging to the state, it may purchase not less than one acre and not more than ten acres per school site and shall receive a deed for such land from the state.

**Source:** Laws 1921, c. 51, § 11, p. 225; C.S.1922, § 6496; C.S.1929, § 79-1711; R.S.1943, § 79-1711; Laws 1949, c. 256, § 155, p. 745; R.S.1943, (1994), § 79-4,117; Laws 1996, LB 900, § 743.

**79-1098 Schoolhouse; erection or improvement; equipment; special tax.**

Whenever it is deemed necessary (1) to erect a schoolhouse or school building or an addition or additions and improvements to any existing schoolhouse or (2) to purchase equipment for such schoolhouse or school buildings, in any school district in this state the school board may and, upon petition of not less than one-fourth of the legal voters of the school district, shall submit to the people of the school district at the next general election or special election a proposition to vote a special annual tax for that purpose of not to exceed seventeen and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such district for a term of not to exceed ten years. Such special tax may be voted at any annual or special meeting of the district by fifty-five percent of the legal voters attending such meeting.

**Source:** Laws 1935, c. 170, § 1, p. 624; C.S.Supp.,1941, § 79-133; R.S. 1943, § 79-144; Laws 1947, c. 270, § 1, p. 872; Laws 1949, c. 256, § 61, p. 713; Laws 1953, c. 287, § 79, p. 975; Laws 1979, LB 187, § 226; Laws 1992, LB 719A, § 183; R.S.1943, (1994), § 79-422; Laws 1996, LB 900, § 744; Laws 1998, LB 1219, § 19; Laws 2018, LB377, § 72.

Raising of money by taxation for construction of school building is authorized. *State ex rel. School Dist. of City of Grand*

*Island v. Board of Equalization*, 166 Neb. 785, 90 N.W.2d 421 (1958).

**79-1099 Repealed. Laws 2018, LB377, § 87.**

**79-10,100 Schoolhouse; erection or improvement; equipment; vote required to approve.**

The school board or board of education, upon being satisfied that all the requirements of section 79-1098 have been substantially complied with and that

fifty-five percent of all votes cast at the election under such section are in favor of such tax, shall enter such proposition and all the proceedings had thereon upon the records of the school district and shall certify the special tax levy to the county clerk as other tax levies.

**Source:** Laws 1935, c. 170, § 3, p. 624; C.S.Supp.,1941, § 79-135; R.S. 1943, § 79-146; Laws 1949, c. 256, § 63, p. 713; R.S.1943, (1994), § 79-424; Laws 1996, LB 900, § 746; Laws 2018, LB377, § 73.

**79-10,101 Schoolhouse; erection or improvement; equipment; tax fund; transfer; limitation upon use; investment.**

The sum levied and collected under section 79-10,100 shall (1) constitute a special fund for the purposes for which it was voted, (2) not be used for any other purpose unless otherwise authorized by a fifty-five percent majority vote of the legal voters of the school district cast at the election under section 79-1098, (3) be paid over to the county treasurer of the county in which the administrative office of such school district is located, (4) be kept by the county treasurer and treasurer of the school district separate and apart from other district funds, and (5) be subject to withdrawal as provided in section 79-587. Any portion of such sum so levied and collected, the expenditure of which is not required to effectuate the purposes for which such sum was voted, may be transferred by the school board, at any regular or special meeting by the vote of a majority of the members attending, to the general fund of the district. All funds received by the district treasurer for such purpose shall be immediately invested by such treasurer in United States Government bonds or in such securities in which the state investment officer may invest the permanent school funds during the accumulation of such sinking fund.

**Source:** Laws 1935, c. 170, § 4, p. 625; C.S.Supp.,1941, § 79-136; R.S. 1943, § 79-147; Laws 1949, c. 256, § 64, p. 713; Laws 1969, c. 50, § 2, p. 270; R.S.1943, (1994), § 79-425; Laws 1996, LB 900, § 747; Laws 1997, LB 345, § 35; Laws 2018, LB377, § 74.

Pursuant to subsection (2) of this section (formerly section 79-425), special funds must be used for the purpose designated when the fund was established. *Rauert v. School Dist. 1-R of Hall Cty.*, 251 Neb. 135, 555 N.W.2d 763 (1996).

**79-10,102 Schoolhouse; where built.**

No school district shall build a schoolhouse outside its district except as provided in section 79-10,119 or when built on land owned by the federal government when such land is controlled under a freeholders lease agreement.

**Source:** Laws 1951, c. 277, § 3, p. 937; Laws 1955, c. 309, § 1, p. 953; R.S.1943, (1994), § 79-425.01; Laws 1996, LB 900, § 748.

**79-10,103 Real property; lease or acquisition; located outside of district; purpose; election; when.**

(1) The school board of any school district may lease, purchase, acquire, own, manage, and hold title to real property which is located outside of its school district for laboratory, recreation, camping, or educational facilities, except that any purchase costing more than five thousand dollars by any school district shall be submitted to a vote of the legal voters in that school district seeking to acquire the property.

(2) The election provisions of this section do not apply when a school district which currently owns real property outside the school district desires to lease, purchase, acquire, own, manage, and hold title to additional real property located contiguous to such property for laboratory, recreation, camping, or educational facilities.

**Source:** Laws 1965, c. 511, § 1, p. 1632; Laws 1975, LB 303, § 1; R.S.1943, (1994), § 79-4,153; Laws 1996, LB 900, § 749; Laws 1997, LB 345, § 36; Laws 2018, LB377, § 75.

**79-10,104 Real property; acquisition; instructional purposes; construction of buildings; limitation.**

(1) A school district may acquire, except by eminent domain, real property for use in instructing students in the practical application of skills taught in classes offered by such school district. A school district may construct or improve buildings upon such property, including, but not limited to, buildings constructed or improved as a part of a buildings trade program offered by such district.

(2) Any construction on or improvement or use of property acquired pursuant to subsection (1) of this section shall be in compliance with applicable building codes and zoning requirements.

(3) A school district may sell or lease property acquired pursuant to subsection (1) of this section directly or through an agent.

**Source:** Laws 1981, LB 218, § 4; R.S.1943, (1994), § 79-4,153.01; Laws 1996, LB 900, § 750.

**Cross References**

**Bids**, when required, see section 73-106.

**79-10,105 Lease or lease-purchase agreements; public school district; authorization; restrictions.**

The school board or board of education of any public school district may enter into a lease or lease-purchase agreement for the exclusive use of its individual jurisdiction for such buildings or equipment as the board determines necessary. Such lease or lease-purchase agreements may not exceed a period of seven years, except that lease-purchase agreements entered into as part of an energy financing contract pursuant to section 66-1065 may not exceed a period of thirty years. All payments pursuant to such leases shall be made from current building funds or general funds. No school district shall directly or indirectly issue bonds to fund any such lease-purchase plan for a capital construction project exceeding twenty-five thousand dollars in costs unless it first obtains a favorable vote of the legal voters pursuant to Chapter 10, article 7. This section does not prevent the school board or board of education of any public school district from refinancing a lease or lease-purchase agreement without a vote of the legal voters for the purpose of lowering finance costs regardless of whether such agreement was entered into prior to July 9, 1988.

**Source:** Laws 1971, LB 732, § 1; Laws 1981, LB 371, § 1; Laws 1985, LB 633, § 3; Laws 1988, LB 435, § 1; R.S.1943, (1994), § 79-4,154; Laws 1996, LB 900, § 751; Laws 1997, LB 345, § 37; Laws 1998, LB 1129, § 14; Laws 2008, LB747, § 2.

This section does not prohibit a school district from entering into a lease-purchase agreement to finance a capital construction project without voter approval if it has not created a nonprofit corporation to issue bonds for the school district. *Nebuda v. Dodge Cty. Sch. Dist.* 0062, 290 Neb. 740, 861 N.W.2d 742 (2015).

School district's lease/purchase of modular buildings was authorized under this section. *Foree v. School Dist. No. 7 of Holt County*, 242 Neb. 166, 493 N.W.2d 625 (1993).

This section empowered the school district to enter into a contract with the Ord School District Building Corporation by which the district leases an addition to its school building, to be built by the corporation, for a five-year term, and thereafter the building is to be donated to the district. This section does not restrict who the lessor may be under such a contract. *George v. Board of Education*, 210 Neb. 127, 313 N.W.2d 259 (1981).

#### **79-10,106 Schoolhouse; use for public assemblies; rental.**

The school board or board of education of any school district may in its discretion permit the use of public school buildings for public assemblages under such rules and regulations as it may adopt. The board may exact such rental as may be necessary to meet the expense of such meeting, restore the property, and pay for extra help required.

**Source:** Laws 1915, c. 236, § 1, p. 553; C.S.1922, § 6554; C.S.1929, § 79-2130; R.S.1943, § 79-2138; Laws 1949, c. 256, § 180, p. 751; R.S.1943, (1994), § 79-4,142; Laws 1996, LB 900, § 752.

#### **79-10,107 School district property; use; lease authorized.**

(1) The school board or board of education of any school district may permit the use, upon such terms and conditions as it determines, of any school district property or portion thereof at times when it is not needed for school district use.

(2) If the school board or board of education of any school district determines that any school district property or portion thereof is not currently needed for the use of the school district but may be needed for future use, the school board or board of education of any school district may lease such property, or portion thereof, upon such terms and conditions as it determines.

**Source:** Laws 1988, LB 1077, § 1; R.S.1943, (1994), § 79-4,142.01; Laws 1996, LB 900, § 753; Laws 2015, LB513, § 1.

#### **79-10,108 Public parks; conveyance to school districts; when authorized; resolution.**

Any city or village in this state may convey title to any real estate owned by any such city or village dedicated or used as a public park to the school district in any such city or village within the boundaries of which such real estate lies, whenever in the judgment of the governing body of any such city or village such real estate is no longer necessary or desirable for use as a public park. The judgment of such governing body shall be evidenced by a resolution, which resolution shall not be finally passed earlier than the next succeeding regular meeting of such governing body after the regular meeting at which it was introduced.

**Source:** Laws 1937, c. 36, § 1, p. 165; C.S.Supp.,1941, § 79-2901; R.S. 1943, § 79-2144; Laws 1949, c. 256, § 183, p. 751; R.S.1943, (1994), § 79-4,145; Laws 1996, LB 900, § 754.

#### **79-10,109 Public parks; conveyance to school districts; use.**

Any such real estate conveyed under the provisions of section 79-10,108 may be used by such school district only in the manner and to the extent that other real estate owned by such school district may be used.

**Source:** Laws 1937, c. 36, § 2, p. 165; C.S.Supp.,1941, § 79-2902; R.S. 1943, § 79-2145; Laws 1949, c. 256, § 184, p. 752; R.S.1943, (1994), § 79-4,146; Laws 1996, LB 900, § 755.

**79-10,110 Health and safety modifications prior to April 19, 2016, qualified zone academy, or American Recovery and Reinvestment Act of 2009 purpose; school board; powers and duties; hearing; tax levy authorized; issuance of bonds authorized.**

(1) Prior to April 19, 2016, after making a determination that an actual or potential environmental hazard or accessibility barrier exists, that a life safety code violation exists, or that expenditures are needed for indoor air quality or mold abatement and prevention within the school buildings or grounds under its control, a school board may make and deliver to the county clerk of such county in which any part of the school district is situated, not later than the date provided in section 13-508, an itemized estimate of the amounts necessary to be expended for the abatement of such environmental hazard, for accessibility barrier elimination, or for modifications for life safety code violations, indoor air quality, or mold abatement and prevention in such school buildings or grounds. The board shall designate the particular environmental hazard abatement project, accessibility barrier elimination project, or modification for life safety code violations, indoor air quality, or mold abatement and prevention for which the tax levy provided for by this section will be expended, the period of years, which shall not exceed ten years, for which the tax will be levied for such project, and the estimated amount of the levy for each year of the period based on the taxable valuation of the district at the time of issuance.

(2) Prior to April 19, 2016, after a public hearing, a school board may undertake any qualified capital purpose in any qualified zone academy under its control and may levy a tax as provided in this section to repay a qualified zone academy bond issued for such undertaking. The board shall designate: (a) The particular qualified capital purpose for which the qualified zone academy bond was issued and for which the tax levy provided for by this section will be expended; (b) the period of years for which the tax will be levied to repay such qualified zone academy bond, not exceeding the maturity term for such qualified zone academy bond established pursuant to federal law or, for any such bond issued prior to May 20, 2009, fifteen years; and (c) the estimated amount of the levy for each year of the period based on the taxable valuation of the district at the time of issuance. The hearing required by this subsection shall be held only after notice of such hearing has been published for three consecutive weeks prior to the hearing in a legal newspaper published or of general circulation in the school district.

(3) Prior to April 19, 2016, after a public hearing, a school board may undertake any American Recovery and Reinvestment Act of 2009 purpose and may levy a tax to repay any American Recovery and Reinvestment Act of 2009 bond issued for such undertaking. The board shall designate: (a) The American Recovery and Reinvestment Act of 2009 purpose for which the American Recovery and Reinvestment Act of 2009 bond will be issued and for which the tax levy provided by this section will be expended; (b) the period of years for



which the tax will be levied to repay such American Recovery and Reinvestment Act of 2009 bond, not exceeding the maturity term for the type of American Recovery and Reinvestment Act of 2009 bond established pursuant to federal law or, if no such term is established, thirty years; and (c) the estimated amount of the levy for each year of such period based on the taxable valuation of the district at the time of issuance. Prior to the public hearing, the school board shall prepare an itemized estimate of the amounts necessary to be expended for the American Recovery and Reinvestment Act of 2009 purpose. The hearing required by this subsection shall be held only after notice of such hearing has been published for three consecutive weeks prior to the hearing in a legal newspaper published or of general circulation in the school district.

(4) Prior to April 19, 2016, the board may designate more than one project under subsection (1) of this section, more than one qualified capital purpose under subsection (2) of this section, or more than one American Recovery and Reinvestment Act of 2009 purpose under subsection (3) of this section and levy a tax pursuant to this section for each such project, qualified capital purpose, or American Recovery and Reinvestment Act of 2009 purpose, concurrently or consecutively, as the case may be, if the aggregate levy in each year and the duration of each such levy will not exceed the limitations specified in this section. Each levy for a project, a qualified capital purpose, or an American Recovery and Reinvestment Act of 2009 purpose which is authorized by this section may be imposed for such duration as the board specifies, notwithstanding the contemporaneous existence or subsequent imposition of any other levy for another project, qualified capital purpose, or American Recovery and Reinvestment Act of 2009 purpose imposed pursuant to this section and notwithstanding the subsequent issuance by the district of bonded indebtedness payable from its general fund levy.

(5) The county clerk shall levy such taxes, not to exceed five and one-fifth cents per one hundred dollars of taxable valuation on the taxable property of the district necessary to (a) cover the environmental hazard abatement or accessibility barrier elimination project costs or costs for modification for life safety code violations, indoor air quality, or mold abatement and prevention itemized by the board pursuant to subsection (1) of this section and (b) repay any qualified zone academy bonds or American Recovery and Reinvestment Act of 2009 bonds pursuant to subsection (2) or (3) of this section. Such taxes shall be collected by the county treasurer at the same time and in the same manner as county taxes are collected and when collected shall be paid to the treasurer of the district and used to cover the project costs.

(6) Each board which submits an itemized estimate shall establish an environmental hazard abatement and accessibility barrier elimination project account, a life safety code modification project account, an indoor air quality project account, or a mold abatement and prevention project account, each board which undertakes a qualified capital purpose shall establish a qualified capital purpose undertaking account, within the qualified capital purpose undertaking fund, and each board which undertakes an American Recovery and Reinvestment Act of 2009 purpose shall establish an American Recovery and Reinvestment Act of 2009 purpose undertaking account. Taxes collected pursuant to this section shall be credited to the appropriate account to cover the project or undertaking costs. Such estimates may be presented to the county clerk and taxes levied accordingly.

(7) For purposes of this section:

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

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

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

(d) American Recovery and Reinvestment Act of 2009 bond means any type or form of bond permitted by the federal American Recovery and Reinvestment Act of 2009, as such act or bond may be amended and supplemented, including the federal Hiring Incentives to Restore Employment Act, as amended and supplemented, for use by schools, except qualified zone academy bonds;

(e) American Recovery and Reinvestment Act of 2009 purpose means any construction of a new public school facility or the acquisition of land on which such a facility is to be constructed or any expansion, rehabilitation, modernization, renovation, or repair of any existing school facilities financed in whole or in part with an American Recovery and Reinvestment Act of 2009 bond;

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

(g) Modification for indoor air quality includes, but is not limited to, any inspection and testing regarding indoor air quality, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, or eliminate indoor air quality problems, any related restoration or replacement of material or related architectural and engineering services, and any other action to reduce or eliminate indoor air quality problems or to enhance air quality conditions in new or existing school buildings or on school grounds under the control of a school board;

(h) Modification for life safety code violation includes, but is not limited to, any inspection and testing regarding life safety codes, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, or eliminate life safety hazards, any related restoration or replacement of material or property, any related architectural and engineering services, and any other action to reduce or eliminate life safety hazards in new or existing school buildings or on school grounds under the control of a school board;

(i) Modification for mold abatement and prevention includes, but is not limited to, any inspection and testing regarding mold abatement and prevention, any maintenance to reduce, lessen, put an end to, diminish, moderate,

decrease, control, dispose of, or eliminate mold problems, any related restoration or replacement of material or related architectural and engineering services, and any other action to reduce or eliminate mold problems or to enhance air quality conditions in new or existing school buildings or on school grounds under the control of a school board;

(j) Qualified capital purpose means (i) rehabilitating or repairing the public school facility in which the qualified zone academy is established or (ii) providing equipment for use at such qualified zone academy;

(k) Qualified zone academy has the meaning found in (i) 26 U.S.C. 1397E(d)(4), as such section existed on October 3, 2008, for qualified zone academy bonds issued on or before such date, and (ii) 26 U.S.C. 54E(d)(1), as such section existed on October 4, 2008, for qualified zone academy bonds issued on or after such date;

(l) Qualified zone academy allocation means the allocation of the qualified zone academy bond limitation by the State Department of Education to the qualified zone academies pursuant to (i) 26 U.S.C. 1397E(e)(2), as such section existed on October 3, 2008, for allocations relating to qualified zone academy bonds issued on or before such date, and (ii) 26 U.S.C. 54E(c)(2), as such section existed on October 4, 2008, for allocations relating to qualified zone academy bonds issued on or after such date; and

(m) Qualified zone academy bond has the meaning found in (i) 26 U.S.C. 1397E(d)(1), as such section existed on October 3, 2008, for such bonds issued on or before such date, and (ii) 26 U.S.C. 54E(a), as such section existed on and after October 4, 2008, for such bonds issued on or after such date, as such section or bonds may be amended or supplemented.

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

(9)(a) For the purpose of paying amounts necessary for the abatement of environmental hazards, for accessibility barrier elimination, for modifications for life safety code violations, indoor air quality, or mold abatement and prevention, for a qualified capital purpose, or for an American Recovery and Reinvestment Act of 2009 purpose, the board may borrow money, establish a sinking fund, and issue bonds and other evidences of indebtedness of the district, which bonds and other evidences of indebtedness shall be secured by and payable from an irrevocable pledge by the district of amounts received in respect of the tax levy provided for by this section and any other funds of the district available therefor. Bonds issued for a qualified capital purpose or an American Recovery and Reinvestment Act of 2009 purpose shall be limited to the type or types of bonds authorized for each purpose in subsections (2) and (3) of this section, respectively. Bonds and other evidences of indebtedness issued by a district pursuant to this subsection shall not constitute a general obligation of the district or be payable from any portion of its general fund levy.

(b) A district may exceed the maximum levy of five and one-fifth cents per one hundred dollars of taxable valuation authorized by subsection (5) of this section in any year in which (i) the taxable valuation of the district is lower than the taxable valuation in the year in which the district last issued bonds pursuant to this section and (ii) such maximum levy is insufficient to meet the combined annual principal and interest obligations for all bonds issued pursuant to this section. The amount generated from a district's levy in excess of the

maximum levy upon the taxable valuation of the district shall not exceed the combined annual principal and interest obligations for such bonds minus the amount generated by levying the maximum levy upon the taxable valuation of the district and minus any federal payments or subsidies associated with such bonds.

(10) The total principal amount of bonds for modifications to correct life safety code violations, for indoor air quality problems, for mold abatement and prevention, or for an American Recovery and Reinvestment Act of 2009 purpose which may be issued pursuant to this section shall not exceed the total amount specified in the itemized estimate described in subsections (1) and (3) of this section.

(11) The total principal amount of qualified zone academy bonds which may be issued pursuant to this section for qualified capital purposes with respect to a qualified zone academy shall not exceed the qualified zone academy allocation granted to the board by the department. The total amount that may be financed by qualified zone academy bonds pursuant to this section for qualified purposes with respect to a qualified zone academy shall not exceed seven and one-half million dollars statewide in a single year. In any year that the Nebraska qualified zone academy allocations exceed seven and one-half million dollars for qualified capital purposes to be financed with qualified zone academy bonds issued pursuant to this section, (a) the department shall reduce such allocations proportionally such that the statewide total for such allocations equals seven and one-half million dollars and (b) the difference between the Nebraska allocation and seven and one-half million dollars shall be available to qualified zone academies for requests that will be financed with qualified zone academy bonds issued without the benefit of this section.

Nothing in this section directs the State Department of Education to give any preference to allocation requests that will be financed with qualified zone academy bonds issued pursuant to this section.

(12) The State Department of Education shall establish procedures for allocating bond authority to school boards as may be necessary pursuant to an American Recovery and Reinvestment Act of 2009 bond.

**Source:** Laws 1983, LB 624, § 2; Laws 1985, LB 405, § 1; Laws 1987, LB 212, § 1; Laws 1988, LB 1073, § 19; Laws 1989, LB 487, § 8; Laws 1989, LB 706, § 9; Laws 1992, LB 1001, § 19; Laws 1993, LB 348, § 22; Laws 1994, LB 1310, § 6; R.S.1943, (1994), § 79-4,207; Laws 1996, LB 900, § 756; Laws 1996, LB 1044, § 817; Laws 1997, LB 710, § 24; Laws 1999, LB 813, § 34; Laws 2001, LB 240, § 1; Laws 2001, LB 797, § 42; Laws 2002, LB 568, § 10; Laws 2003, LB 67, § 23; Laws 2003, LB 540, § 10; Laws 2009, LB545, § 24; Laws 2009, LB549, § 37; Laws 2010, LB1071, § 25; Laws 2012, LB633, § 6; Laws 2016, LB959, § 9; Laws 2018, LB377, § 76.

**79-10,110.01 Health and safety modifications, qualified zone academy, or American Recovery and Reinvestment Act of 2009 purpose bonds; refunding bonds; authorized; conditions.**

(1) If a school board has issued or shall issue bonds pursuant to section 79-10,110 or 79-10,110.02 and such bonds or any part of such bonds are unpaid, are a legal liability against the school district governed by such school

board, and are bearing interest, the school board may issue refunding bonds with which to call and redeem all or any part of such outstanding bonds at or before the date of maturity or the redemption date of such bonds. Such school board may include various series and issues of the outstanding bonds in a single issue of refunding bonds and may issue refunding bonds to pay any redemption premium and interest to accrue and become payable on the outstanding bonds being refunded. The refunding bonds may be issued and delivered at any time prior to the date of maturity or the redemption date of the bonds to be refunded that the school board determines to be in the best interests of the school district. The proceeds derived from the sale of the refunding bonds issued pursuant to this section may be invested in obligations of or guaranteed by the United States Government pending the time the proceeds are required for the purposes for which such refunding bonds were issued. To further secure the refunding bonds, the school board may enter into a contract with any bank or trust company within or without the state with respect to the safekeeping and application of the proceeds of the refunding bonds and the safekeeping and application of the earnings on the investment. All bonds issued under this section shall be redeemable at such times and under such conditions as the school board shall determine at the time of issuance.

(2) Any outstanding bonds or other evidences of indebtedness issued by a school board for which sufficient funds or obligations of or guaranteed by the United States Government have been pledged and set aside in safekeeping to be applied for the complete payment of such bonds or other evidences of indebtedness at maturity or upon redemption prior to maturity, interest thereon, and redemption premium, if any, shall not be considered as outstanding and unpaid.

(3) Each refunding bond issued under this section shall state on the bond (a) the object of its issue, (b) this section or the sections of the law under which such issue was made, including a statement that the issue is made in pursuance of such section or sections, and (c) the date and principal amount of the bond or bonds for which the refunding bonds are being issued.

(4) The refunding bonds shall be paid and the levy made and the tax collected for their payment in the same manner and under the same authorization for levy of taxes as applied for the bonds being refunded, in accordance with section 79-10,110 or 79-10,110.02.

**Source:** Laws 2012, LB633, § 7; Laws 2016, LB959, § 10.

**79-10,110.02 Health and safety modifications on and after April 19, 2016; school board; powers and duties; tax levy authorized; issuance of bonds authorized.**

(1) On and after April 19, 2016, the school board of any school district may make a determination that an additional property tax levy is necessary for a specific abatement project to address an actual or potential environmental hazard, accessibility barrier, life safety code violation, life safety hazard, school safety infrastructure concern, or mold which exists within one or more existing school buildings or the school grounds of existing school buildings controlled by the school district. Such determination shall not include abatement projects related to the acquisition of new property, the construction of a new building, the expansion of an existing building, or the remodeling of an existing building for purposes other than the abatement of environmental hazards, accessibility

barriers, life safety code violations, life safety hazards, school safety infrastructure concerns, or mold. Upon such determination, the school board may, not later than the date provided in section 13-508, make and deliver to the county clerk of such county in which any part of the school district is situated an itemized estimate of the amounts necessary to be expended for such abatement project, any insurance proceeds or other anticipated funds that will be received by the school district related to the abatement project, the period of years for which the property tax will be levied for such project, and the estimated amount of the levy for each year of the period based on the taxable valuation of the district at the time of issuance. The period of years for such levy shall not exceed ten years and the levy for such project when combined with all other levies pursuant to this section and section 79-10,110 shall not exceed three cents per one hundred dollars of taxable valuation. Nothing in this section shall affect levies pursuant to section 79-10,110.

(2) The county clerk shall levy such taxes and such taxes shall be collected by the county treasurer at the same time and in the same manner as county taxes are collected and when collected shall be paid to the treasurer of the district. A separate abatement project account shall be established for each project by the school district. Taxes collected pursuant to this section shall be credited to the appropriate account to cover the project costs.

(3) For purposes of this section:

(a) Abatement includes, but is not limited to, any related inspection and testing, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, eliminate, or remove the issue causing the need for abatement, any related restoration or replacement of material or property, any related architectural and engineering services, and any other action to reduce or eliminate the issue causing the need for abatement in existing school buildings or on the school grounds of existing school buildings under the board's control;

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

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

(4) For the purpose of paying amounts necessary for the abatement project, the board may borrow money, establish a sinking fund, and issue bonds and other evidences of indebtedness of the district, which bonds and other evidences of indebtedness shall be secured by and payable from an irrevocable pledge by the district of amounts received in respect of the tax levy provided for by this section and any other funds of the district available therefor. Bonds and other evidences of indebtedness issued by a district pursuant to this subsection shall not constitute a general obligation of the district or be payable from any portion of its general fund levy. The total principal amount of bonds for abatement projects pursuant to this section shall not exceed the total amount specified in the itemized estimate described in subsection (1) of this section.

(5) A district may exceed the maximum levy of three cents per one hundred dollars of taxable valuation authorized by this section in any year in which (a) the taxable valuation of the district is lower than the taxable valuation in the year in which the district last issued bonds pursuant to this section and (b) such

maximum levy is insufficient to meet the combined annual principal and interest obligations for all bonds issued pursuant to this section and section 79-10,110. The amount generated from a district's levy in excess of three cents per one hundred dollars of taxable valuation shall not exceed the combined annual principal and interest obligations for such bonds minus the amount generated by levying three cents per one hundred dollars of taxable valuation.

**Source:** Laws 2016, LB959, § 11; Laws 2018, LB377, § 77; Laws 2024, LB1329, § 77.

Effective date July 19, 2024.

**79-10,110.03 Commercial air filters; pilot program; legislative intent; report; rules and regulations.**

(1) The State Department of Education shall develop and implement a pilot program to study the efficacy of commercial air filters in classrooms to remove common pollutants and particulate matter and their impact on academic and behavioral performance.

(2) It is the intent of the Legislature that:

(a) The pilot program development and implementation be completed in consultation with the University of Nebraska;

(b) The study be three years in duration over school years 2021-22, 2022-23, and 2023-24;

(c) The pilot program include fifty participating schools with six participating classrooms in each participating school;

(d) Participating schools voluntarily agree to participate in the pilot program;

(e) Participating classrooms be used to educate students in any grade between, and including, grades 3 through 8;

(f) No more than fifty percent of participating schools be selected from the same school district; and

(g) Fifty percent of the participating classrooms be randomly assigned to the control group.

(3) Upon conclusion of the pilot program, the department shall electronically report the results to the Clerk of the Legislature and to the Education Committee of the Legislature.

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

**Source:** Laws 2021, LB630, § 1; Laws 2022, LB754, § 1.

**79-10,111 Repealed. Laws 2018, LB377, § 87.**

**79-10,112 Repealed. Laws 1999, LB 272, § 118.**

**79-10,113 Repealed. Laws 2018, LB377, § 87.**

**79-10,114 Class I, II, III, or IV school district; property; sale; proceeds of sale; use.**

No school property of any kind belonging to any Class I, II, III, or IV school district shall be sold by the school board or board of education except at a regular meeting of the board and with an affirmative recorded vote of at least two-thirds of all the members of the board. Proceeds of sale of school property

sold as provided in this section may be held separately from other funds of the school district and may be used for any school purpose as the board may determine, including, but not limited to, acquiring sites for school buildings or teacherages and purchasing existing buildings for use as school buildings or teacherages, including the sites upon which such buildings are located, and the erection, alteration, equipping, and furnishing of school buildings or teacherages.

**Source:** Laws 1881, c. 78, subdivision XIV, § 21, p. 383; R.S.1913, § 6968; C.S.1922, § 6602; C.S.1929, § 79-2520; R.S.1943, § 79-2523; Laws 1949, c. 256, § 208, p. 759; Laws 1971, LB 524, § 1; Laws 1993, LB 348, § 24; R.S.1943, (1994), § 79-521; Laws 1996, LB 900, § 760; Laws 2018, LB377, § 78; Laws 2024, LB1329, § 78.

Effective date July 19, 2024.

Affirmative recorded vote of at least two-thirds of all the members of the board at a regular meeting is mandatory. Hand v. School Dist. of City of Sidney, 140 Neb. 874, 2 N.W.2d 313 (1942).

**79-10,115 Class IV or V school district; sale of property; conditions.**

School property of any kind belonging to any Class IV or V district shall not be sold by the board of education except at a regular meeting and with an affirmative recorded vote of at least two-thirds of all the members of the board.

**Source:** Laws 1917, c. 225, § 19, p. 554; C.S.1922, § 6628; C.S.1929, § 79-2619; R.S.1943, § 79-2619; Laws 1949, c. 256, § 217, p. 762; R.S.1943, (1994), § 79-530; Laws 1996, LB 900, § 761.

**79-10,116 Class IV or V school district; bonds; purchase before maturity.**

If it is deemed advisable by the board of education of a Class IV or V school district to purchase bonds issued by the district before maturity, the treasurer shall sell to the highest bidder in the open market, and in a manner prescribed by the board, such bonds or securities as belong to the school funds and the proceeds thereof shall apply to purchase of bonds issued by the district.

**Source:** Laws 1891, c. 45, § 27, p. 327; R.S.1913, § 7033; C.S.1922, § 6664; C.S.1929, § 79-2727; R.S.1943, § 79-2731; Laws 1949, c. 256, § 219, p. 762; R.S.1943, (1994), § 79-532; Laws 1996, LB 900, § 762.

**79-10,117 Class I, II, or III school district; teacherage; site; purchase or lease; powers of voters at election or annual or special meeting; tax.**

The legal voters of any Class I, II, or III school district have the power, at an election or at any annual or special meeting, to (1) direct the purchasing or leasing of any appropriate site and the building, hiring, or purchasing of a teacherage for the purpose of providing housing facilities for the school employees of the district, (2) determine the amount necessary to be expended for such purposes the succeeding year, and (3) vote on a tax on the property of the district for the payment of the amount.

**Source:** Laws 1953, c. 300, § 3, p. 1011; Laws 1959, c. 401, § 1, p. 1361; R.S.1943, (1994), § 79-541; Laws 1996, LB 900, § 763; Laws 1997, LB 345, § 41; Laws 2018, LB377, § 79; Laws 2024, LB1329, § 79.

Effective date July 19, 2024.



**79-10,118 Class I, II, or III school district; teacherage; tax; election.**

A tax to establish a special fund for the building, hiring, or purchasing of a teacherage for the purpose of providing housing facilities for the school employees of any Class I, II, or III district may be levied when authorized by fifty-five percent of the legal voters voting on the proposition. The notice of the proposal to establish such special fund shall include the sum to be raised or the amount of the tax to be levied, the period of years, and the time of its taking effect. If fifty-five percent of the legal voters voting at any such election vote in favor of the proposition, the result of such election shall be certified to the county board which, upon being satisfied that all the requirements have been substantially complied with, shall cause the proceedings to be entered upon the record of the county board and shall make an order that the levy be made in accordance with the election result and collected as other taxes.

**Source:** Laws 1953, c. 300, § 4, p. 1011; R.S.1943, (1994), § 79-542; Laws 1996, LB 900, § 764; Laws 1997, LB 345, § 42; Laws 2018, LB377, § 80; Laws 2024, LB1329, § 80.

Effective date July 19, 2024.

**79-10,119 School district; real estate for future sites outside district; annexation; effect.**

A school district may purchase, acquire, own, manage, and hold title to real estate for future school sites which at the time of such purchasing or acquiring is outside such school district in a territory not more than three miles beyond the limits of such district but contiguous thereto. Such district shall not erect school buildings on the real estate prior to the inclusion of such real estate within the boundaries of such a school district. If the real estate so acquired adjoins the purchaser's district, the acquisition of the real estate constitutes an annexation of such real estate to the purchaser's district. The intervention of a street, road, or highway between the real estate to be acquired and the purchaser's district does not preclude such real estate from being considered as adjoining the purchaser's district.

**Source:** Laws 1955, c. 309, § 2, p. 953; Laws 1957, c. 349, § 1, p. 1193; R.S.1943, (1994), § 79-543; Laws 1996, LB 900, § 765; Laws 2021, LB528, § 41.

**79-10,120 School district; board of education; special fund for sites and buildings; levy of taxes.**

The school board or board of education of any school district may establish a special fund for purposes of acquiring sites for school buildings or teacherages, purchasing existing buildings for use as school buildings or teacherages, including the sites upon which such buildings are located, and the erection, alteration, equipping, and furnishing of school buildings or teacherages and additions to school buildings for elementary and high school grades and for no other purpose. The fund shall be established from the proceeds of an annual levy, to be determined by the board, of not to exceed fourteen cents on each one hundred dollars upon the taxable value of all taxable property in the district which shall be in addition to any other taxes authorized to be levied for school

purposes. Such tax shall be levied and collected as are other taxes for school purposes.

**Source:** Laws 1963, c. 462, § 1, p. 1490; R.R.S.1943, § 79-811; Laws 1969, c. 49, § 4, p. 268; Laws 1979, LB 187, § 237; R.S.1943, (1987), § 79-548.01; Laws 1991, LB 511, § 53; Laws 1992, LB 245, § 54; Laws 1992, LB 719A, § 190; R.S.1943, (1994), § 79-547.04; Laws 1996, LB 900, § 766; Laws 2006, LB 1024, § 100; Laws 2007, LB641, § 31; Laws 2016, LB1067, § 53; Laws 2018, LB377, § 81.

The levying of taxes for accumulation of funds is within the constitutional provision that "necessary revenue" of the state and its governmental subdivisions be raised by taxation in such manner as the Legislature might direct. *Banks v. Board of Education of Chase County*, 202 Neb. 717, 277 N.W.2d 76 (1979).

This section is not an unconstitutional delegation of legislative authority. *Banks v. Board of Education of Chase County*, 202 Neb. 717, 277 N.W.2d 76 (1979).

**79-10,121 Repealed. Laws 2018, LB377, § 87.**

**79-10,122 Repealed. Laws 2018, LB377, § 87.**

**79-10,123 Repealed. Laws 2018, LB377, § 87.**

**79-10,124 Repealed. Laws 2018, LB377, § 87.**

**79-10,125 Repealed. Laws 2018, LB377, § 87.**

**79-10,126 Class V school district; school fiscal year 2017-18 and thereafter; school tax; additional levy; funds established.**

For school fiscal year 2017-18 and each school fiscal year thereafter, each Class V school district shall establish (1) for the general operation of the schools, such fund as will result from an annual levy of such rate of tax upon the taxable value of all the taxable property in such school district as the board of education determines to be necessary for such purpose, (2) a fund resulting from an annual amount of tax to be determined by the board of education of not to exceed fourteen cents on each one hundred dollars upon the taxable value of all the taxable property in the district for the purpose of acquiring sites of school buildings and the erection, alteration, equipping, and furnishing of school buildings and additions to school buildings, which tax levy shall be used for no other purposes, and (3) a further fund resulting from an annual amount of tax to be determined by the board of education to pay interest on and retiring, funding, or servicing of bonded indebtedness of the district.

**Source:** Laws 1939, c. 112, § 1, p. 485; C.S.Supp.,1941, § 79-2722; R.S.1943, § 79-2724; Laws 1945, c. 214, § 3, p. 629; Laws 1947, c. 298, § 3, p. 914; Laws 1949, c. 256, § 266, p. 780; Laws 1951, c. 285, § 2, p. 952; Laws 1953, c. 307, § 2, p. 1023; Laws 1955, c. 320, § 3, p. 989; Laws 1959, c. 407, § 2, p. 1370; Laws 1969, c. 145, § 44, p. 699; Laws 1971, LB 292, § 20; Laws 1979, LB 187, § 241; Laws 1992, LB 719A, § 192; R.S.1943, (1994), § 79-1007.02; Laws 1996, LB 900, § 772; Laws 2006, LB 1024, § 101; Laws 2016, LB1067, § 54.

The county board of equalization makes the levy of taxes for a school district. *C. R. T. Corp. v. Board of Equalization*, 172 Neb. 540, 110 N.W.2d 194 (1961).

**79-10,126.01 Class V school district; school fiscal years prior to school fiscal year 2017-18; school tax; additional levy; funds established.**

For school fiscal years prior to school fiscal year 2017-18, each Class V school district shall establish (1) for the general operation of the schools, such fund as will result from distributions pursuant to section 79-1073 from the learning community levy and any annual levy of such rate of tax upon the taxable value of all the taxable property in such school district as the board of education determines to be necessary for such purpose and as authorized pursuant to subdivision (2)(c) of section 77-3442, (2) for the purpose of acquiring sites of school buildings and the erection, alteration, equipping, and furnishing of school buildings and additions to school buildings, a fund as will result from distributions from any annual levy of such rate of tax upon the taxable value of all the taxable property in such school district as the school board determines to be necessary for such purpose and as authorized pursuant to subdivision (2)(c) of section 77-3442, which fund shall be used for no other purposes, and (3) a further fund resulting from an annual amount of tax to be determined by the board of education to pay interest on and for retiring, funding, or servicing of bonded indebtedness of the district.

**Source:** Laws 2006, LB 1024, § 102; Laws 2007, LB641, § 32; Laws 2016, LB1067, § 55.

**79-10,127 Class V school district; sale of site; proceeds; use.**

Whenever it is determined by the board of education of a Class V school district that the real estate described as Capitol Square, being a subdivision in the city of Omaha, Douglas County, Nebraska, and being within the northwest quarter of the northwest quarter of section twenty-two, township fifteen, north, range thirteen, east of the sixth principal meridian, together with the south twelve feet of vacated Davenport Street adjoining such premises on the north, which was deeded by the State of Nebraska to the city in which such school district is located, for educational purposes, is no longer suitable for such use, and that it would be in the best educational interests of such city and school district that such real estate and the buildings and improvements erected and maintained thereon by the school district be sold, and the proceeds of such sale used for the purchase of another school site and the erection of such a school building or buildings thereon as are authorized under sections 79-10,127 to 79-10,135, such property may be sold pursuant to the provisions of such sections or pursuant to section 79-10,136, notwithstanding restrictions in the original deed to the city prohibiting the sale and conveyance of such property.

**Source:** Laws 1955, c. 319, § 1, p. 984; Laws 1982, LB 845, § 1; R.S.1943, (1994), § 79-1061; Laws 1996, LB 900, § 773.

**79-10,128 Class V school district; sale of site; petition; contents.**

The school district may file a petition in the district court of the county in which such real estate as described in section 79-10,127 is situated, setting forth the terms and conditions of the original deed from the State of Nebraska, the provisions of sections 79-10,127 to 79-10,135, and the findings of the board of education as to the desirability of sale.

**Source:** Laws 1955, c. 319, § 2, p. 985; R.S.1943, (1994), § 79-1062; Laws 1996, LB 900, § 774.

**79-10,129 Class V school district; sale of site; petition; parties to action; summons.**

The city of the metropolitan class holding title to such real estate as described in section 79-10,127 and the State of Nebraska, grantor in the original deed to the city, shall be made parties defendant in such proceedings and served with summons as in civil actions.

**Source:** Laws 1955, c. 319, § 3, p. 985; R.S.1943, (1994), § 79-1063; Laws 1996, LB 900, § 775.

**79-10,130 Class V school district; sale of site; hearing; decree.**

If, after an examination of the pleadings of the respective parties and hearing the evidence, it appears to the court (1) that the record title of the city of the metropolitan class in such real estate as described in section 79-10,127 is restricted to educational purposes, (2) that the exclusive control of all property within the school district used for educational purposes is reposed in the school district, (3) that such city and the State of Nebraska have no beneficial, proprietary, or reversionary interest therein, (4) that the state has by sections 79-10,127 to 79-10,135 authorized the removal of the restrictions against the sale of the property, and (5) that it is in the public interest and for the best interests of the school district that such property be sold and the proceeds of such sale be used by the school district for the purchase of a school site in a different location and the construction of such a school building or buildings thereon as are authorized under sections 79-10,127 to 79-10,135, then the court shall enter a decree terminating the restrictions against alienation of record, finding that the beneficial interest in the property is in the school district, and directing the sale of the property in accordance with the provisions of sections 79-10,127 to 79-10,135.

**Source:** Laws 1955, c. 319, § 4, p. 985; R.S.1943, (1994), § 79-1064; Laws 1996, LB 900, § 776.

**79-10,131 Class V school district; sale of site; appraisers; appointment; oath.**

The court shall, after entry of the decree under section 79-10,130, appoint three appraisers to ascertain the fair value of the real estate as described in section 79-10,127 and the improvements thereon. Such appraisers shall be disinterested freeholders residing within the school district who are qualified by knowledge and experience to determine the fair value of property of the particular character involved. The appraisers shall, before entering upon their duties, take and subscribe an oath that they will support the United States Constitution and the Constitution of Nebraska and will faithfully and impartially discharge their duties as required by law.

**Source:** Laws 1955, c. 319, § 5, p. 986; R.S.1943, (1994), § 79-1065; Laws 1996, LB 900, § 777.

**79-10,132 Class V school district; sale of site; appraisers; compensation; sheriff; notice of sale; publication; fees.**

Upon the filing of the report of the appraisers appointed in accordance with section 79-10,131, the court shall fix the fees allowed such appraisers for their services, which fees shall be paid by the school district. If the board of education is satisfied with the amount of such appraisal, the court, upon the application by the district, shall issue an order directing the sheriff of the county to sell the property as described in section 79-10,127 at public auction to the highest cash bidder, but for not less than ninety percent of the appraised

value. Notice of such sale and the time and place where the sale shall be held shall be given by publication three consecutive weeks in some legal newspaper published in the county where the property is located or, if none is published in such county, in a legal newspaper of general circulation in the county where the property is located. Proof of such publication shall be made by the affidavit of the publisher to be filed in the proceedings. In making such sale, the sheriff shall act in his or her official capacity and shall be liable on his or her official bond for all his or her acts incident to such sale. The sheriff shall receive for his or her services an amount to be determined by the court, to be paid by the school district as part of the costs of the action.

**Source:** Laws 1955, c. 319, § 6, p. 986; Laws 1986, LB 960, § 43; R.S.1943, (1994), § 79-1066; Laws 1996, LB 900, § 778.

**79-10,133 Class V school district; sale of site; sheriff; report of sale; confirmation.**

The sheriff shall file a report of the proceedings pursuant to the order of sale under section 79-10,132. If it appears, upon the filing of such report, that the sale has in all respects been made in conformity to the provisions of sections 79-10,127 to 79-10,135, that the property as described in section 79-10,127 was sold for its fair value under the circumstances and conditions of the sale and for not less than ninety percent of its appraised value, and that a subsequent sale would not realize a greater amount, the court shall enter an order (1) confirming the sale, (2) directing the city to convey title to the property to the purchaser, free and clear of all restrictions upon its use previously imposed by the State of Nebraska, and (3) quieting title in such purchaser.

**Source:** Laws 1955, c. 319, § 7, p. 987; R.S.1943, (1994), § 79-1067; Laws 1996, LB 900, § 779.

**79-10,134 Class V school district; sale of site; decree; appeal.**

Any party to the proceedings under sections 79-10,127 to 79-10,133 shall have the right of appeal, as in other civil actions, from the final order and judgment of the district court to the Court of Appeals.

**Source:** Laws 1955, c. 319, § 8, p. 987; Laws 1991, LB 732, § 146; R.S.1943, (1994), § 79-1068; Laws 1996, LB 900, § 780.

**79-10,135 Class V school district; sale of site; sheriff; disbursement of proceeds; disposition.**

If, upon the final determination of the action, the sale under sections 79-10,127 to 79-10,134 is ratified and confirmed, the court shall direct the sheriff to pay to the school district the proceeds of such sale and shall direct the board of education of such school district to place the proceeds of the sale in the fund set apart by law for the purchase of school sites and the construction of high school buildings, to be used for the purchase of a site and the construction of such school buildings and for no other purpose.

**Source:** Laws 1955, c. 319, § 9, p. 987; R.S.1943, (1994), § 79-1069; Laws 1996, LB 900, § 781.

**79-10,136 Class V school district; conveyance of site; conditions; proceeds.**

Whenever it is determined by the board of education of a Class V school district that it would be in the best educational interests of the school district that any portion of the real estate legally described in section 79-10,127 and any buildings and improvements erected and maintained thereon be conveyed to the United States, the State of Nebraska, any political subdivision of the state, or any nonprofit corporation which is legally organized and existing under the laws of the state, such portion of the property may be conveyed by such city and school district upon such terms and conditions as are acceptable to such board of education, notwithstanding any restrictions in the original deed to the city prohibiting such conveyance. Such conveyance shall not be subject to the provisions of sections 79-10,128 to 79-10,135. Any proceeds or other consideration received by the school district from such conveyance shall belong solely to the school district, to be used by it for such purposes authorized by the laws governing such school district.

**Source:** Laws 1982, LB 845, § 2; R.S.1943, (1994), § 79-1070; Laws 1996, LB 900, § 782.

#### (f) SCHOOL BREAKFAST PROGRAM

##### **79-10,137 Legislative findings.**

The Legislature finds that, for Nebraska to compete effectively in the world, it must have an educated and productive work force. In order to have an educated and productive work force, it must prepare its children to learn, and in order to do so the children must be well-nourished. The Legislature finds that school breakfast and lunch programs are integral parts of Nebraska's educational system.

**Source:** Laws 2000, LB 26, § 1.

##### **79-10,138 Program qualifications; reimbursement.**

The State Department of Education shall reimburse each qualified public school in Nebraska a portion of the cost of such school's school breakfast program in the amount of five cents per school breakfast served by such school in the second preceding school year. To qualify, a school district shall operate a school lunch program and shall submit information regarding the number of breakfasts served in a manner prescribed by the department. The Legislature shall appropriate money from the General Fund to carry out this section.

**Source:** Laws 2000, LB 26, § 2; Laws 2003, LB 796, § 1; Laws 2007, LB73, § 1.

##### **79-10,139 Rules and regulations.**

Payments pursuant to section 79-10,138 shall be made to each school district according to rules and regulations for disbursements adopted and promulgated by the State Department of Education.

**Source:** Laws 2000, LB 26, § 3.

#### (g) SUMMER FOOD SERVICE PROGRAM

##### **79-10,140 Summer Food Service Program; terms, defined.**

For purposes of sections 79-10,140 to 79-10,142:

- (1) Department means the State Department of Education; and
- (2) Sponsor means a public or private nonprofit school food authority, local, municipal, or county government, public or private nonprofit higher education institution participating in the National Youth Sports Program, or residential public or private nonprofit summer camp that provides food service similar to food service made available to children during the school year under the school lunch program or the school breakfast program under the Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq.

**Source:** Laws 2012, LB1090, § 1.

**79-10,141 Summer Food Service Program; legislative intent; department; duties; preference for grants; applications.**

(1) Because children are susceptible to hunger in the summertime, resulting in negative health effects, the Legislature intends, as a state nutrition and health policy, that the State of Nebraska's participation in the Summer Food Service Program of the United States Department of Agriculture be strengthened where it is needed to provide adequate nutrition for children.

(2) To encourage participation and utilization of the Summer Food Service Program, the department shall:

(a) Provide information to sponsors concerning the benefits and availability of the Summer Food Service Program; and

(b) Award grants of up to fifteen thousand dollars on a competitive basis to sponsors approved by the department. Grants awarded under this section may be used for nonrecurring expenses incurred in initiating or expanding services under the Summer Food Service Program, including, but not limited to, the acquisition of equipment, salaries of staff, training of staff in new capacities, outreach efforts to publicize new or expanded services under the Summer Food Service Program, minor alterations to accommodate new equipment, computer point-of-service systems for food service, transportation costs associated with food delivery to accommodate rural noncongregate meal service, and the purchase of vehicles for transporting food to sites. Funds may be expended up to the full cost of a qualifying expense incurred by a sponsor in initiating or expanding the services under the Summer Food Service Program, and if the funds are expended solely for the benefit of child nutrition programs administered by the department, no proration of the expense shall be required. Funds shall not be used for food, computers, except point-of-service systems, or capital outlay. The total amount of grants awarded under this section shall be limited to one hundred thousand dollars per fiscal year.

(3) In awarding grants under this section, the department shall give preference in the following order of priority to:

(a) Sponsors located within the boundaries of school districts in which fifty percent or more of the students apply and qualify for free and reduced-price lunches or located within the boundaries of a census tract in which fifty percent or more of the children fall under the poverty threshold as defined by the United States Department of Agriculture;

(b) Sponsors in which health or education activities are emphasized; and

(c) Sponsors that participate in the Summer Food Service Program at the time of grant application.

(4) Sponsors may apply for grants under this section by:

(a) Submitting to the department a plan to start or expand services under the Summer Food Service Program;

(b) Agreeing to operate the Summer Food Service Program for a period of not less than two years; and

(c) Assuring that the expenditure of funds from state and local resources for the maintenance of other child nutrition programs administered by the department shall not be diminished as a result of grants received under this section.

**Source:** Laws 2012, LB1090, § 2; Laws 2017, LB512, § 18; Laws 2024, LB1329, § 81.

Effective date July 19, 2024.

**79-10,142 Summer Food Service Program; department; collect data; report.**

The department shall collect data regarding the number of sponsors, the number of sites utilized by sponsors, and the number of children served as a result of the grants awarded under section 79-10,141. The department shall submit a report electronically to the Education Committee of the Legislature on this data not later than December 1 each year.

**Source:** Laws 2012, LB1090, § 3; Laws 2013, LB222, § 34.

(h) FREE OR REDUCED-PRICE MEALS

**79-10,143 Parent or guardian; provide information regarding qualification; school district; duties.**

A parent or guardian of any student enrolled in, or in the process of enrolling in, any school district in the state may voluntarily provide information on any application submitted pursuant to Nebraska law, rules, and regulations regarding the applicant's potential to meet the qualifications for free or reduced-price lunches solely for determining eligibility pursuant to subsection (4) of section 79-238, subsection (2) of section 79-241, section 79-2,131, section 79-2,133, subsection (2) of section 79-611, subdivision (1)(c) and subsection (3) of section 79-2110, or section 85-2104. Each school district shall process information provided pursuant to this section in the same manner as the district would to determine the qualification status of the student for free or reduced-price meals. Each school district shall comply with the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as such act and section existed on January 1, 2015, and regulations adopted thereunder with regard to any information collected pursuant to this section. If no such information is provided pursuant to this section or on an application for free or reduced-price meals, the student shall be presumed not to qualify for free or reduced-price lunches.

**Source:** Laws 2015, LB525, § 3; Laws 2016, LB1066, § 20.

(i) STATE DEPARTMENT OF EDUCATION DUTIES

**79-10,144 Community eligibility provision; state aid and federal funds; State Department of Education; duties.**

The State Department of Education shall promote the community eligibility provision to schools and school districts eligible to participate, and such promotion shall include, but is not limited to, providing official departmental



guidance regarding the options available to schools and school districts for implementation and options for school districts in maintaining state aid and federal funds.

**Source:** Laws 2016, LB1066, § 23.

(j) LEARNING COMMUNITY TRANSITION AID

**79-10,145 Repealed. Laws 2021, LB528, § 73.**

(k) SWIMMING POOL

**79-10,146 Swimming pool; personnel.**

Every swimming pool owned, rented, leased, or otherwise used by a school district for practice, competition, or any other school function shall have at least one person present during such use who is currently certified by a nationally recognized aquatic training program in first aid, cardiopulmonary resuscitation, and drowning risk prevention.

**Source:** Laws 2017, LB512, § 4.

(l) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES  
SUPPORT ACT FUNDING

**79-10,147 Legislative intent.**

It is the intent of the Legislature to fully fund the Tax Equity and Educational Opportunities Support Act each year.

**Source:** Laws 2020, LB1107, § 142.

**Cross References**

**Tax Equity and Educational Opportunities Support Act**, see section 79-1001.

(m) EXTRAORDINARY INCREASE IN SPECIAL  
EDUCATION EXPENDITURES ACT

**79-10,148 Extraordinary Increase in Special Education Expenditures Act, how cited.**

Sections 79-10,148 to 79-10,151 shall be known and may be cited as the Extraordinary Increase in Special Education Expenditures Act.

**Source:** Laws 2023, LB705, § 39.

**79-10,149 Legislative findings.**

The Legislature finds that:

(1) The cost to educate students with special needs has increased in recent years;

(2) Special education expenditures can be unpredictable for school districts, particularly for school districts with small student populations, and can change dramatically from year to year as students with varying needs join or leave the school district;

(3) School districts may have difficulty covering large unexpected special education expenditures; and

(4) Assisting school districts upfront with large, unexpected special education expenditures allows such school districts to more easily meet the needs of all students.

**Source:** Laws 2023, LB705, § 40.

**79-10,150 Special education expenditures; extraordinary increase, expected; application for payment; procedure; payment, how made.**

(1) On or before January 15 of each school fiscal year, a school district with expected special education expenditures that total (a) at least fifty thousand dollars annually or (b) one-half percent or more of such school district's annual budget, whichever is greater, may submit an application as prescribed by the Commissioner of Education to the State Department of Education for a payment from the Education Future Fund to cover an extraordinary increase in special education expenditures pursuant to the requirements of this section. Such application shall include the special education expenditures of the applicant school district as of the immediately preceding December 31 for the school fiscal year in which the application is submitted.

(2) The department shall divide the special education expenditures for the school fiscal year immediately preceding the school fiscal year in which an application is submitted by two and multiply the result by one hundred seven percent for each applicant school district.

(3) Each applicant school district shall qualify for a maximum payment equal to the difference of the special education expenditures for the current school fiscal year submitted pursuant to subsection (1) of this section minus the amount calculated pursuant to subsection (2) of this section for such school district for such school fiscal year.

(4) The department shall make a payment to each applicant school district on or before January 31 for the school fiscal year in which the application is submitted. Such payment shall equal the maximum payment determined pursuant to subsection (3) of this section, except that if the sum of all maximum payments for applicant school districts for such school fiscal year exceeds the available balance for such purpose in the Education Future Fund, each payment shall be reduced proportionally so that the sum of all payments for applicant school districts for such school fiscal year equals the available balance for such purpose in the fund.

**Source:** Laws 2023, LB705, § 41; Laws 2024, LB1329, § 82.

Effective date July 19, 2024.

**79-10,151 Payments; funding.**

The department shall make a payment to each qualifying applicant school district from the Education Future Fund pursuant to section 79-10,150 for an extraordinary increase in special education expenditures. The department shall reimburse the fund for each such payment from the appropriation for special education and support services reimbursements pursuant to section 79-1142 in the school fiscal year immediately following the school fiscal year in which each such payment was made. It is the intent of the Legislature to appropriate up to two million five hundred thousand dollars from the Education Future

Fund for fiscal year 2023-24 and each year thereafter for payments to qualifying applicants.

**Source:** Laws 2023, LB705, § 42.

**ARTICLE 11  
SPECIAL POPULATIONS AND SERVICES**

**Cross References**

**Commission for the Deaf and Hard of Hearing**, see section 71-4720 et seq.  
**Infants and toddlers**, coordination of services, see the Early Intervention Act, section 43-2501.  
**Parenting Act**, see section 43-2920.  
**Quality Child Care Act**, see section 43-2601.  
**State aid to education**, see the Tax Equity and Educational Opportunities Support Act, section 79-1001.  
**Step Up to Quality Child Care Act**, see section 71-1952.  
**Transitional services**, see section 83-1225.

(a) EARLY CHILDHOOD EDUCATION

- Section
- 79-1101. Legislative findings and intent; terms, defined.
  - 79-1102. Early Childhood Training Center; established; purpose; duties; statewide training program; established.
  - 79-1102.01. Repealed. Laws 2013, LB 495, § 5.
  - 79-1103. Early Childhood Education Grant Program; established; administration; priorities; programs; requirements; report; hearing; endowment agreement; effect.
  - 79-1104. Before-and-after-school or prekindergarten services; transportation services; school board; powers and duties.
  - 79-1104.01. Nebraska Early Childhood Education Endowment; endowment provider; requirements; endowment agreement; Early Childhood Education Endowment Fund; Early Childhood Education Endowment Cash Fund; created; investment.
  - 79-1104.02. Early Childhood Education Endowment Cash Fund; use; grants; program requirements.
  - 79-1104.03. Early Childhood Education Endowment Board of Trustees; created; administrative support.
  - 79-1104.04. Board of trustees; members; terms; expenses.
  - 79-1104.05. Early Childhood Education Endowment Fund; funding.

(b) GIFTED CHILDREN AND LEARNERS WITH HIGH ABILITY

- 79-1105. State Department of Education; education for learners with high ability; consultant; employ.
- 79-1106. Learners with high ability; purpose of sections.
- 79-1107. Learners with high ability; terms, defined.
- 79-1108. Learners with high ability; identification and programs.
- 79-1108.01. Learners with high ability; school districts; duties.
- 79-1108.02. Learners with high ability; curriculum programs; funding.
- 79-1108.03. Learners with high ability; rules and regulations.
- 79-1109. Repealed. Laws 1997, LB 347, § 59.

(c) SPECIAL EDUCATION

SUBPART (i)–SPECIAL EDUCATION ACT

- 79-1110. Act, how cited.
- 79-1111. Legislative intent.
- 79-1112. Repealed. Laws 1998, LB 904, § 3.
- 79-1113. Definitions, where found.
- 79-1114. Adjusted average per pupil cost of the preceding year, defined.
- 79-1115. Allowable costs, defined.
- 79-1115.01. Assistive technology device, defined.
- 79-1116. Average per pupil cost of the service agency, defined.
- 79-1117. Child with a disability, defined.
- 79-1118. Department, defined.
- 79-1118.01. Disability, defined; diagnosis.

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79-1119.	Excess cost, defined.
79-1119.01.	Interim-program school, defined.
79-1120.	Transferred to section 79-1118.01.
79-1121.	Related services, defined.
79-1122.	Residential care, defined.
79-1123.	Repealed. Laws 2000, LB 1243, § 10.
79-1124.	Service agency, defined.
79-1125.	Special education, defined.
79-1125.01.	Support services, defined.
79-1126.	Act; to whom applicable; Division of Vocational Rehabilitation; duties.
79-1127.	Special education; school board; duties.
79-1128.	Use of funds; failure to offer acceptable program; effect.
79-1129.	Children with disabilities; types of services to be furnished; transportation; reimbursement; special instruction.
79-1130.	Transportation services; legislative intent; department; duties; cooperative arrangement.
79-1131.	Education programs; children with disabilities who are less than five years of age; voluntary.
79-1132.	Special education programs; children less than five years of age; department provide grants.
79-1133.	Special education programs; student less than five years of age; school district; amount paid to service agency; determination.
79-1134.	Repealed. Laws 1999, LB 813, § 62.
79-1135.	Children with disabilities who are less than five years of age; regional plan of services; school district; participation; supplementary amendments.
79-1136.	Sections, how construed.
79-1137.	Legislative findings and intent.
79-1138.	Disabilities; assessment, identification, and verification of need for services; Commissioner of Education; duties.
79-1139.	Special education programs and services; children eligible.
79-1140.	School district; amount paid to service agency; determination.
79-1141.	Repealed. Laws 1999, LB 813, § 62.
79-1142.	Department; reimbursement for special education programs and support services; to whom; manner; limitations; transfers.
79-1143.	Fiscal year for purposes of act.
79-1144.	Children with disabilities; education; funds; department; expenditures authorized.
79-1145.	Appropriation of General Funds; limitation.
79-1146.	Handicapped children; school district; educational service unit; contract for services.
79-1147.	Temporary residential care; payment by state; when.
79-1148.	Children with disabilities; regional networks, schools, or centers; authorized.
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79-1150.	Regional network, school, or center; remittance of money.
79-1151.	Residential schools; emergency cash fund; established; use.
79-1152.	Repealed. Laws 2019, LB675, § 57.
79-1153.	Repealed. Laws 2019, LB675, § 57.
79-1154.	Department; review special training and educational programs.
79-1155.	Special education programs; reports; special education program application; review and approval.
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79-1159.01.	Department; assistive technology devices registry.
79-1160.	State Board of Education; rules and regulations.
79-1161.	Child with a disability; school district; protect rights of child; assignment of surrogate parent.

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79-1162. Identification, evaluation, or educational placement; hearing; copy of procedures provided; reimbursement.  
79-1163. Department; conduct hearings; hearing officers; employed; qualifications; jurisdiction.  
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79-1166. Hearing officer; subpoena witnesses; fees and expenses; failure to respond; contempt.  
79-1167. Hearing officer; findings, decision, or order; judicial review.  
79-1168. Repealed. Laws 2009, LB 549, § 53.  
79-1169. Repealed. Laws 2009, LB 549, § 53.  
79-1170. Repealed. Laws 2009, LB 549, § 53.  
79-1171. Repealed. Laws 2009, LB 549, § 53.  
79-1172. Repealed. Laws 2009, LB 549, § 53.  
79-1173. Repealed. Laws 2009, LB 549, § 53.  
79-1174. Repealed. Laws 2009, LB 549, § 53.  
79-1175. Repealed. Laws 2009, LB 549, § 53.  
79-1176. Repealed. Laws 2009, LB 549, § 53.  
79-1177. Repealed. Laws 2009, LB 549, § 53.  
79-1178. Repealed. Laws 2009, LB 549, § 53.  
79-1179. Repealed. Laws 1998, LB 904, § 3.  
79-1180. Repealed. Laws 1998, LB 904, § 3.  
79-1181. Repealed. Laws 1998, LB 904, § 3.  
79-1182. Repealed. Laws 1998, LB 904, § 3.  
79-1183. Repealed. Laws 1998, LB 904, § 3.  
79-1183.01. Repealed. Laws 2000, LB 1135, § 34.  
79-1184. Repealed. Laws 1998, Spec. Sess., LB 1, § 63.

### SUBPART (ii)—DEPARTMENT DUTIES

- 79-1185. Transferred to section 79-1125.01.  
79-1186. Repealed. Laws 1999, LB 813, § 62.  
79-1187. Repealed. Laws 1998, Spec. Sess., LB 1, § 63.  
79-1188. Repealed. Laws 2019, LB675, § 57.

### (d) BRIDGE PROGRAMS

- 79-1189. Repealed. Laws 2018, LB669, § 1.  
79-1190. Repealed. Laws 2018, LB669, § 1.  
79-1191. Repealed. Laws 2018, LB669, § 1.  
79-1192. Repealed. Laws 2018, LB669, § 1.  
79-1193. Repealed. Laws 2018, LB669, § 1.  
79-1194. Repealed. Laws 2018, LB669, § 1.  
79-1195. Repealed. Laws 2018, LB669, § 1.  
79-1196. Repealed. Laws 2018, LB669, § 1.  
79-1197. Repealed. Laws 1997, LB 347, § 59.

### (e) PROGRAMS FOR STUDENTS WITH HEARING IMPAIRMENTS

- 79-1198. Repealed. Laws 1999, LB 813, § 62.  
79-1199. Repealed. Laws 1998, Spec. Sess., LB 1, § 62.  
79-11,100. Repealed. Laws 1998, Spec. Sess., LB 1, § 62.  
79-11,101. Repealed. Laws 1998, Spec. Sess., LB 1, § 62.  
79-11,102. Repealed. Laws 1998, Spec. Sess., LB 1, § 62.  
79-11,103. Repealed. Laws 1998, Spec. Sess., LB 1, § 62.  
79-11,104. Repealed. Laws 1998, Spec. Sess., LB 1, § 62.  
79-11,105. Repealed. Laws 1998, Spec. Sess., LB 1, § 62.  
79-11,106. Repealed. Laws 1998, Spec. Sess., LB 1, § 62.  
79-11,107. Repealed. Laws 1998, Spec. Sess., LB 1, § 62.  
79-11,108. Repealed. Laws 1998, Spec. Sess., LB 1, § 62.

### (f) STUDENTS WHO ARE BLIND OR VISUALLY IMPAIRED

- 79-11,109. Nebraska Center for the Education of Children who are Blind or Visually Impaired; State Department of Education; powers.  
79-11,110. Center; purpose.

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- 79-11,111. Repealed. Laws 1999, LB 813, § 62.
- 79-11,112. Repealed. Laws 1999, LB 813, § 62.
- 79-11,113. Repealed. Laws 1999, LB 813, § 62.
- 79-11,114. Repealed. Laws 1999, LB 813, § 62.
- 79-11,115. Repealed. Laws 1999, LB 813, § 62.
- 79-11,116. Repealed. Laws 1999, LB 813, § 62.
- 79-11,117. Repealed. Laws 1999, LB 813, § 62.
- 79-11,118. Repealed. Laws 1999, LB 813, § 62.
- 79-11,119. Repealed. Laws 1999, LB 813, § 62.
- 79-11,120. Repealed. Laws 1999, LB 813, § 62.

### (g) VOCATIONAL REHABILITATION

- 79-11,121. Division of Rehabilitation Services; established.
- 79-11,122. Division; administration; director; appointment; duties.
- 79-11,123. Division; rehabilitation services; furnish; exceptions.
- 79-11,124. Rehabilitation services; board; powers; duties.
- 79-11,125. Rehabilitation services; federal funds; State Treasurer; duties.
- 79-11,126. Division; budget estimates; federal funds; authority to comply with requirements.
- 79-11,127. Rehabilitation services; eligibility.
- 79-11,128. Rehabilitation services; aggrieved person; State Board of Education; fair hearing.
- 79-11,129. Rehabilitation services; unlawful acts.
- 79-11,130. State Board of Education; Secretary of the United States Department of Health and Human Services; agreement; purpose.
- 79-11,131. State Treasurer; custodian of funds; disbursement.
- 79-11,132. Interagency agreement with Department of Health and Human Services; matching of funds required.

### (h) ADULT EDUCATION

- 79-11,133. Adult Education Program; establishment; purpose.
- 79-11,134. Adult education; classes; authorized.
- 79-11,135. Adult Education Program; expenses; how paid.

### (i) SEAMLESS DELIVERY SYSTEM PILOT PROJECT

- 79-11,136. Repealed. Laws 2009, LB 549, § 53.
- 79-11,137. Repealed. Laws 2009, LB 549, § 53.
- 79-11,138. Repealed. Laws 2009, LB 549, § 53.
- 79-11,139. Repealed. Laws 2009, LB 549, § 53.
- 79-11,140. Repealed. Laws 2009, LB 549, § 53.
- 79-11,141. Repealed. Laws 2009, LB 549, § 53.

### (j) COMMUNITY-BASED NEUROBEHAVIORAL ACTION PLAN ACT

- 79-11,142. Repealed. Laws 2003, LB 667, § 26.
- 79-11,143. Repealed. Laws 2003, LB 667, § 26.
- 79-11,144. Repealed. Laws 2003, LB 667, § 26.
- 79-11,145. Repealed. Laws 2003, LB 667, § 26.
- 79-11,146. Repealed. Laws 2003, LB 667, § 26.
- 79-11,147. Repealed. Laws 2003, LB 667, § 26.
- 79-11,148. Repealed. Laws 2003, LB 667, § 26.
- 79-11,149. Repealed. Laws 2003, LB 667, § 26.

### (k) HIGH-NEEDS EDUCATION COORDINATOR

- 79-11,150. Repealed. Laws 2011, LB 333, § 18.

### (l) SPECIAL EDUCATION SERVICES TASK FORCE

- 79-11,151. Repealed. Laws 2009, LB 154, § 27.
- 79-11,152. Repealed. Laws 2009, LB 154, § 27.
- 79-11,153. Repealed. Laws 2009, LB 154, § 27.
- 79-11,154. Repealed. Laws 2009, LB 154, § 27.

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## (m) STUDENT ACHIEVEMENT COORDINATOR

79-11,155. Student achievement coordinator; appointment; qualifications; duties.

## (n) DYSLEXIA

79-11,156. Student; receive evidence-based structured literacy instruction.

79-11,157. State Department of Education; duties.

79-11,157.01. School district; provide information relating to dyslexia; State Department of Education; duties.

79-11,158. Teacher education program; include instruction in dyslexia.

79-11,158.01. Dyslexia Research Grant Program; created; eligible applicant; grant; use; violation; civil action.

## (o) BEHAVIORAL HEALTH

79-11,159. Behavioral health points of contact; designation; qualifications; behavioral health training and resources; access; coordination; report.

79-11,160. Repealed. Laws 2024, LB1329, § 102.

## (a) EARLY CHILDHOOD EDUCATION

**79-1101 Legislative findings and intent; terms, defined.**

(1) The Legislature finds and declares that: (a) Early childhood education programs can assist children in achieving their potential as citizens, workers, and human beings and can strengthen families; (b) early childhood education has been proven to be a sound public investment of funds not only in assuring productive, taxpaying workers in the economy but also in avoidance of increasingly expensive social costs for those who drop out as productive members of society; (c) the key ingredient in an effective early childhood education program is a strong family development and support component because the role of the parent is of critical importance; (d) while all children can benefit from quality, developmentally appropriate early childhood education experiences, such experiences are especially important for at-risk infants and children; (e) current early childhood education programs serve only a fraction of Nebraska's children and the quality of current programs varies widely; (f) well-designed early childhood education programs increase the likelihood that children who participate will enter school prepared to achieve high standards; (g) effective early childhood education programs require staff with knowledge about child growth, development, and learning and family systems; and (h) both public and nonpublic programs which meet recognized standards of quality can address the growth, development, and learning needs of young children.

(2) It is the intent of the Legislature and the public policy of this state to encourage schools and community-based organizations to work together to provide high-quality early childhood education programs for infants and young children which include family involvement, with the goal of assuring that every family in Nebraska has access to such programs for, at the minimum, both the school year prior to the school year for which the child will be eligible to attend kindergarten and the school year prior to the school year for which the child will be required to attend kindergarten if such child has not already enrolled in kindergarten. The purposes of sections 79-1101 to 79-1104.05 are to provide state assistance to selected school districts, cooperatives of school districts, and educational service units for early childhood education, to encourage coordination between public and private service providers of early childhood education and child care programs, and to provide state support for efforts to improve training opportunities for staff in such programs.

(3) For purposes of sections 79-1101 to 79-1104.05:

(a) Board of trustees means the Early Childhood Education Endowment Board of Trustees;

(b) Early childhood education program means any prekindergarten part-day or full-day program or in-home family support program with a stated purpose of promoting social, emotional, intellectual, language, physical, and aesthetic development and learning for children from birth to compulsory kindergarten-entrance age and family development and support;

(c) Endowment agreement means an agreement between the State Department of Education and an endowment provider entered into pursuant to section 79-1104.01; and

(d) Endowment provider means an endowment that has met the criteria described in section 79-1104.01 and that has entered into an endowment agreement.

**Source:** Laws 1990, LB 567, § 1; R.S.1943, (1994), § 79-3701; Laws 1996, LB 900, § 783; Laws 2001, LB 759, § 1; Laws 2006, LB 1256, § 1; Laws 2014, LB967, § 19; Laws 2024, LB71, § 9.  
Effective date July 19, 2024.

**Cross References**

Provision of training for child development and early childhood education services, see section 43-2620.

**79-1102 Early Childhood Training Center; established; purpose; duties; statewide training program; established.**

(1) An Early Childhood Training Center shall be established within the State Department of Education. The purpose of the center is to train individuals who provide education and development activities for infants and young children and their parents. The center, taking into consideration existing public and private training efforts, shall provide support and assistance to schools and public and private providers of early childhood education services in developing training programs for staff. The center, in consultation with the Department of Health and Human Services, shall approve training that is used to satisfy child care licensing criteria for required training, annual inservice training, and training needed for participation or advancement in the quality rating and improvement system established pursuant to the Step Up to Quality Child Care Act. The center, taking into consideration existing public and private training efforts, shall also provide clearinghouse information and publications on available early childhood education training opportunities throughout the state.

(2) The center shall establish a statewide training program to support the development of parent education programs in local communities. The goal of this project is to train individuals who will be able to work with public and private providers of early childhood services to establish parent education programs in their communities.

**Source:** Laws 1990, LB 567, § 2; R.S.1943, (1994), § 79-3702; Laws 1996, LB 900, § 784; Laws 2007, LB231, § 1; Laws 2014, LB967, § 20.

**Cross References**

Step Up to Quality Child Care Act, see section 71-1952.

**79-1102.01 Repealed. Laws 2013, LB 495, § 5.**



**79-1103 Early Childhood Education Grant Program; established; administration; priorities; programs; requirements; report; hearing; endowment agreement; effect.**

(1)(a) The State Department of Education shall establish and administer the Early Childhood Education Grant Program. Upon the effective date of an endowment agreement, administration of the Early Childhood Education Grant Program with respect to programs for children from birth to age three shall transfer to the board of trustees. If there is no endowment agreement in effect, the department shall request proposals in accordance with this section for all early childhood education programs from school districts, individually or in cooperation with other school districts or educational service units, working in cooperation with existing nonpublic programs which meet the requirements of subsection (2) of section 79-1104. If there is an endowment agreement in effect, the board of trustees shall administer the Early Childhood Education Grant Program with respect to programs for children from birth to age three pursuant to section 79-1104.02 and the department shall continue to administer the Early Childhood Education Grant Program with respect to other prekindergarten programs pursuant to sections 79-1101 to 79-1104.05. All administrative procedures of the board of trustees, including, but not limited to, rules, grant applications, and funding mechanisms, shall harmonize with those established by the department for other prekindergarten programs.

(b) The first priority shall be for (i) continuation grants for programs that received grants in the prior school fiscal year and for which the state aid calculation pursuant to the Tax Equity and Educational Opportunities Support Act does not include early childhood education students, in an amount equal to the amount of such grant, except that if the grant was a first-year grant the amount shall be reduced by thirty-three percent, (ii) continuation grants for programs for which the state aid calculation pursuant to the act includes early childhood education students, in an amount equal to the amount of the grant for the school fiscal year prior to the first school fiscal year for which early childhood education students were included in the state aid calculation for the school district's local system minus the calculated state aid amount, and (iii) for school fiscal year 2007-08, continuation grants for programs for which the state aid calculation pursuant to the act includes early childhood education students, but such state aid calculation does not result in the school district receiving any equalization aid, in an amount equal to the amount of the grant received in school fiscal year 2006-07. The calculated state aid amount shall be calculated by multiplying the basic funding per formula student for the school district by the formula students attributed to the early childhood education programs pursuant to the Tax Equity and Educational Opportunities Support Act.

(c) The second priority shall be for new grants and expansion grants for programs that will serve at-risk children who will be eligible or required to attend kindergarten the following school year. New grants may be given for up to three years in an amount up to one-half of the total budget of the program per year. Expansion grants may be given for one year in an amount up to one-half of the budget for expanding the capacity of the program to serve additional children.

(d) The third priority shall be for new grants, expansion grants, and continuation grants for programs serving children younger than those who will be eligible or required to attend kindergarten the following school year. New

grants may be given for up to three years in an amount up to one-half the total budget of the program per year. Expansion grants may be given for one year in an amount up to one-half the budget for expanding the capacity of the program to serve additional children. Continuation grants under this priority may be given annually in an amount up to one-half the total budget of the program per year minus any continuation grants received under the first priority.

(e) Programs serving children who will be eligible or required to attend kindergarten the following school year shall be accounted for separately for grant purposes from programs serving younger children, but the two types of programs may be combined within the same classroom to serve multi-age children. Programs that receive grants for school fiscal years prior to school fiscal year 2005-06 to serve both children who will be eligible or required to attend kindergarten the following school year and younger children shall account for the two types of programs separately for grant purposes beginning with school year 2005-06 and shall be deemed to have received grants prior to school fiscal year 2005-06 for each year that grants were received for the types of programs representing the age groups of the children served.

(2) Each program proposal which is approved by the department shall include (a) a planning period, (b) an agreement to participate in periodic evaluations of the program to be specified by the department, (c) evidence that the program will be coordinated or contracted with existing programs, including those listed in subdivision (d) of this subsection and nonpublic programs which meet the requirements of subsection (2) of section 79-1104, (d) a plan to coordinate and use a combination of local, state, and federal funding sources, including, but not limited to, programs for children with disabilities below six years of age funded through the Special Education Act, the Early Intervention Act, funds available through the flexible funding provisions under the Special Education Act, the federal Head Start program, 42 U.S.C. 9831 et seq., the federal Even Start Family Literacy Program, 20 U.S.C. 6361 et seq., Title I of the federal Improving America's Schools Act of 1994, 20 U.S.C. 6301 et seq., and child care assistance through the Department of Health and Human Services, (e) a plan to use sliding fee scales and the funding sources included in subdivision (d) of this subsection to maximize the participation of economically and categorically diverse groups and to ensure that participating children and families have access to comprehensive services, (f) the establishment of an advisory body which includes families and community members, (g) the utilization of appropriately qualified staff, (h) an appropriate child-to-staff ratio, (i) appropriate group size, (j) compliance with minimum health and safety standards, (k) appropriate facility size and equipment, (l) a strong family development and support component recognizing the central role of parents in their children's development, (m) developmentally and culturally appropriate curriculum, practices, and assessment, (n) sensitivity to the economic and logistical needs and circumstances of families in the provision of services, (o) integration of children of diverse social and economic characteristics, (p) a sound evaluation component, including at least one objective measure of child performance and progress, (q) continuity with programs in kindergarten and elementary grades, (r) instructional hours that are similar to or less than the instructional hours for kindergarten except that a summer session may be offered, (s) well-defined language development and early literacy emphasis, including the involvement of parents in family literacy activities, (t) a plan for ongoing professional development of staff, and (u) inclusion of children with disabilities as

defined in the Special Education Act, all as specified by rules and regulations of the department in accordance with sound early childhood educational practice.

(3) The department shall make an effort to fund programs widely distributed across the state in both rural and urban areas.

(4) The department, in collaboration with the board of trustees if an endowment agreement is in effect, shall provide a report evaluating the programs to the State Board of Education and the Legislature by January 1 of each odd-numbered year. The report submitted to the Legislature shall be submitted electronically. The Education Committee of the Legislature shall hold a public hearing regarding the report. Up to five percent of the total appropriation for the Early Childhood Education Grant Program for grants administered by the department may be reserved by the department for evaluation and technical assistance for the programs.

(5) Early childhood education programs, whether established pursuant to this section or section 79-1104, may be approved for purposes of the Tax Equity and Educational Opportunities Support Act, expansion grants, and continuation grants on the submission of a continuation plan demonstrating that the program will meet the requirements of subsection (2) of this section and a proposed operating budget demonstrating that the program will receive resources from other sources equal to or greater than the sum of any grant received pursuant to this section for the prior school year plus any calculated state aid as calculated pursuant to subsection (1) of this section for the prior school year.

(6) The State Board of Education may adopt and promulgate rules and regulations to implement the Early Childhood Education Grant Program, except that if there is an endowment agreement in effect, the board of trustees shall recommend any rules and regulations relating specifically to the Early Childhood Education Grant Program with respect to programs for children from birth to age three. It is the intent of the Legislature that the rules and regulations for programs for children from birth to age three be consistent to the greatest extent possible with those established for other prekindergarten programs.

**Source:** Laws 1990, LB 567, § 3; Laws 1991, LB 511, § 70; Laws 1992, LB 245, § 75; Laws 1993, LB 348, § 70; R.S.1943, (1994), § 79-3703; Laws 1996, LB 900, § 785; Laws 1997, LB 346, § 8; Laws 2001, LB 759, § 2; Laws 2005, LB 577, § 5; Laws 2006, LB 1256, § 2; Laws 2007, LB603, § 7; Laws 2008, LB1153, § 3; Laws 2010, LB1071, § 26; Laws 2011, LB235, § 24; Laws 2012, LB782, § 160; Laws 2013, LB495, § 2; Laws 2024, LB71, § 10.  
Effective date July 19, 2024.

#### Cross References

**Early Intervention Act**, see section 43-2501.

**Special Education Act**, see section 79-1110.

**Tax Equity and Educational Opportunities Support Act**, see section 79-1001.

### **79-1104 Before-and-after-school or prekindergarten services; transportation services; school board; powers and duties.**

(1) Any school board in its discretion may (a) establish and financially support programs providing before-and-after-school or prekindergarten services, to which attendance shall be voluntary and which the board may deem

beneficial to the education of prekindergarten or school-age children and (b) provide or financially support transportation for children to, from, or to and from programs as defined in section 71-1910. The board may charge a fee, not to exceed the actual cost, for providing such programs and services but may waive such fee on the basis of need. This section does not allow any school district to fail to meet its responsibilities under the Special Education Act.

(2) Prekindergarten programs established by school boards or educational service units shall be approved by the State Department of Education subject to regulations adopted and promulgated by the State Board of Education and may include such components as (a) the utilization of appropriately qualified staff, (b) an appropriate child-to-staff ratio, (c) appropriate group size, (d) compliance with minimum health and safety standards, (e) appropriate facility size and equipment, (f) a strong family development and support component, (g) developmentally and culturally appropriate curriculum, practices, and assessment, (h) well-defined language development and early literacy emphasis, and (i) a plan for ongoing professional development of staff, all in accordance with sound early childhood educational practice, research, and evaluation. All teachers and administrators in prekindergarten programs established pursuant to this section shall hold a valid certificate or permit issued pursuant to sections 79-806 to 79-815, except that the State Board of Education may adopt and promulgate rules and regulations that exempt a prekindergarten program from the requirement for teachers and administrators in prekindergarten programs to hold a valid certificate or permit if such program is in compliance with such rules and regulations.

**Source:** Laws 1996, LB 900, § 786; Laws 2001, LB 759, § 3; Laws 2003, LB 685, § 23; Laws 2006, LB 1256, § 3; Laws 2018, LB803, § 1.

**Cross References**

Special Education Act, see section 79-1110.

**79-1104.01 Nebraska Early Childhood Education Endowment; endowment provider; requirements; endowment agreement; Early Childhood Education Endowment Fund; Early Childhood Education Endowment Cash Fund; created; investment.**

(1) Within ninety days after July 14, 2006, the State Department of Education shall request proposals from private endowments with experience in managing public and private funds for the benefit of children and families in multiple locations in Nebraska to be the endowment provider for the Nebraska Early Childhood Education Endowment upon the terms set forth in this section.

(2) An endowment seeking to become the endowment provider for the Nebraska Early Childhood Education Endowment shall agree to:

(a) Irrevocably commit, subject to subdivision (4)(a) of this section, no less than twenty million dollars in a private endowment to be used solely as part of the Nebraska Early Childhood Education Endowment within five years after the effective date of the endowment agreement, of which no less than five million dollars shall be pledged on the effective date of the endowment agreement. A minimum of one million dollars shall be placed in the private endowment prior to December 31, 2006, and a minimum of five million dollars shall be placed in the private endowment prior to June 30, 2007;

(b) Commit all earnings deposited from such private endowment for deposit into the Early Childhood Education Endowment Cash Fund;

(c) Permit the board of trustees to determine the allocation of funds from the Early Childhood Education Endowment Cash Fund pursuant to section 79-1104.02; and

(d) Submit to the State Department of Education an annual financial statement of the private endowment, audited by an independent auditor and complying with all applicable Internal Revenue Service requirements. The financial statement shall report details on the private endowment, including the current value of the corpus and the annual receipts to the private endowment categorized by donations and interests, together with a report listing the amount and purpose of expenditures from the private endowment.

(3) Upon selection of an endowment provider, the State Department of Education and such endowment provider shall enter into an endowment agreement pursuant to which the state and the endowment provider will agree to deposit funds as provided in subsection (4) of this section.

(4)(a) Upon the effective date of an endowment agreement, the state shall provide for the Early Childhood Education Endowment Fund, which is hereby created, in accordance with section 79-1104.05. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(b) All interest, earnings, and proceeds from the Early Childhood Education Endowment Fund shall be deposited in the Early Childhood Education Endowment Cash Fund, which is hereby created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. All interest, earnings, and proceeds from the Early Childhood Education Endowment Cash Fund shall be retained in such fund.

(c) Upon the effective date of an endowment agreement, the endowment provider shall deposit the amounts set forth in the endowment agreement into a private endowment for the sole benefit of the Early Childhood Education Endowment Fund. Money in the private endowment shall be managed by the endowment provider in accordance with sound, professional, fiduciary practices and in accordance with the endowment agreement.

(d) Earnings deposited from the private endowment shall be deposited into the Early Childhood Education Endowment Cash Fund at least annually or as the endowment agreement provides.

**Source:** Laws 2006, LB 1256, § 4; Laws 2008, LB1153, § 4; Laws 2009, LB456, § 1.

#### Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

### **79-1104.02 Early Childhood Education Endowment Cash Fund; use; grants; program requirements.**

(1) The Early Childhood Education Endowment Cash Fund, consisting of the interest, earnings, and proceeds from the Early Childhood Education Endowment Fund and the earnings from the private endowment created by the endowment provider and any additional private donations made directly there-to, shall be used exclusively to provide funds for the Early Childhood Education

Grant Program for at-risk children from birth to age three as set forth in this section.

(2) Grants provided by this section shall be to school districts and cooperatives of school districts for early childhood education programs for at-risk children from birth to age three, as determined by the board of trustees pursuant to criteria set forth by the board of trustees. School districts and cooperatives of school districts may establish agreements with other public and private entities to provide services or operate programs.

(3) Each program selected for a grant pursuant to this section may be provided a grant for up to one-half of the total budget of such program per year. Programs selected for grant awards may receive continuation grants subject to the availability of funding and the submission of a continuation plan which meets the requirements of the board of trustees.

(4) Programs shall be funded across the state and in urban and rural areas to the fullest extent possible.

(5) Each program selected for a grant pursuant to this section shall meet the requirements described in subsection (2) of section 79-1103, except that the periodic evaluations of the program are to be specified by the board of trustees and the programs need not include continuity with programs in kindergarten and elementary grades and need not include instructional hours that are similar to or less than the instructional hours for kindergarten. The programs may continue to serve at-risk children who turn three years of age during the program year until the end of the program year, as specified by the board of trustees.

(6) The board of trustees may issue grants to early childhood education programs entering into agreements pursuant to subsection (2) of this section with child care providers if the child care provider enrolls in the quality rating and improvement system described in the Step Up to Quality Child Care Act prior to the beginning of the initial grant period. Child care providers shall participate in training approved by the Early Childhood Training Center which is needed for participation or advancement in the quality rating and improvement system.

(7) The board of trustees shall require child care providers in programs receiving grants under this section to obtain a step three rating or higher on the quality scale described in section 71-1956 within three years of the starting date of the initial grant period to continue funding the program. The board of trustees shall require the child care provider to maintain a step three rating or higher on such quality scale after three years from the starting date of the initial grant period to continue funding the program.

(8) If a child care provider fails to achieve or maintain a step three rating or higher on the quality scale described in such section after three years from the starting date of the initial grant period, the child care provider shall obtain and maintain the step three rating on such quality scale before any new or continuing grants may be issued for programs in which such child care provider participates.

(9) Any school district entering into agreements pursuant to subsection (2) of this section with child care providers must employ or contract with, either directly or indirectly, a program coordinator holding a certificate as defined in section 79-807.

(10) Up to ten percent of the total amount deposited in the Early Childhood Education Endowment Cash Fund each fiscal year may be reserved by the board of trustees for evaluation and technical assistance for the Early Childhood Education Grant Program with respect to programs for at-risk children from birth to age three.

**Source:** Laws 2006, LB 1256, § 5; Laws 2008, LB1153, § 5; Laws 2013, LB410, § 11; Laws 2013, LB495, § 3; Laws 2015, LB547, § 2; Laws 2023, LB705, § 91.

Cross References

Step Up to Quality Child Care Act, see section 71-1952.

**79-1104.03 Early Childhood Education Endowment Board of Trustees; created; administrative support.**

To administer the Early Childhood Education Grant Program with respect to children from birth to age three, the Early Childhood Education Endowment Board of Trustees is created. For administrative support and budgetary purposes only, the board of trustees shall be within the State Department of Education.

**Source:** Laws 2006, LB 1256, § 6.

**79-1104.04 Board of trustees; members; terms; expenses.**

(1) The board of trustees shall include the following six members:

- (a) The Commissioner of Education or his or her designee;
- (b) The chief executive officer of the Department of Health and Human Services or his or her designee; and
- (c) The following persons appointed by the Governor, in his or her discretion:
  - (i) Two persons nominated by the endowment provider;
  - (ii) An early childhood professional representing an urban at-risk area appointed pursuant to subsection (5) of this section; and
  - (iii) An early childhood professional representing a rural at-risk county appointed pursuant to subsection (6) of this section.

(2) The terms of office for members initially appointed under subsection (1) of this section shall be three years. Upon completion of the initial terms of such members, the Governor shall appoint the two members under subdivision (1)(c)(i) of this section for terms of one and two years, the member under subdivision (1)(c)(ii) of this section for a term of three years, and the member under subdivision (1)(c)(iii) of this section for a term of two years. Succeeding appointees shall be appointed for terms of three years. An appointee to a vacancy occurring from an unexpired term shall serve out the term of his or her predecessor. Members whose terms have expired shall continue to serve until their successors have been appointed and qualified.

(3) The board of trustees shall by majority vote annually elect a chairperson from among the members of the board of trustees.

(4) The members of the board of trustees shall be reimbursed for expenses incurred while engaged in the performance of their official duties as provided in sections 81-1174 to 81-1177.

(5) The Governor shall, in his or her discretion, appoint one member to the board of trustees who resides or works in an at-risk urban area consisting of not less than ten contiguous census tracts, as determined by the United States Bureau of the Census for the 2000 United States Census, within a city of the metropolitan class, which each contain a percentage of families below the poverty line of greater than twenty percent, as reported by the United States Bureau of the Census for the 2000 United States Census.

(6) The Governor shall, in his or her discretion, appoint one member to the board of trustees who resides or works in a county which does not contain a city of the metropolitan class or a city of the primary class and which contains a percentage of families below the poverty line of greater than eight and one-half percent, as reported by the United States Bureau of the Census for the 2000 United States Census.

**Source:** Laws 2006, LB 1256, § 7; Laws 2007, LB296, § 713; Laws 2008, LB1153, § 6; Laws 2020, LB381, § 94.

**79-1104.05 Early Childhood Education Endowment Fund; funding.**

The Early Childhood Education Endowment Fund shall consist of any funds allocated to the Early Childhood Education Endowment Fund from funds belonging to the state for educational purposes described in Article VII, section 7, of the Constitution of Nebraska.

**Source:** Laws 2006, LB 1256, § 8; Laws 2009, LB456, § 2.

(b) GIFTED CHILDREN AND LEARNERS WITH HIGH ABILITY

**79-1105 State Department of Education; education for learners with high ability; consultant; employ.**

The State Department of Education has authority to employ a full-time consultant trained and experienced in the field of education for learners with high ability. Such consultant shall encourage, advise, and consult with each school of the state in the development and implementation of plans for education of learners with high ability and shall monitor the implementation of sections 79-1106 to 79-1108.03. For purposes of this section, learner with high ability has the definition found in section 79-1107.

**Source:** Laws 1967, c. 512, § 1, p. 1718; R.S.1943, (1994), § 79-339; Laws 1996, LB 900, § 787; Laws 1997, LB 347, § 33; Laws 1998, LB 1229, § 5.

**79-1106 Learners with high ability; purpose of sections.**

The purpose of sections 79-1106 to 79-1108.03 is to assist and encourage all school districts in the development, improvement, and implementation of accelerated or differentiated curriculum programs that will serve the educational needs of learners with high ability at levels appropriate for their abilities.

**Source:** Laws 1994, LB 647, § 1; R.S.1943, (1994), § 79-4001; Laws 1996, LB 900, § 788; Laws 1997, LB 347, § 34; Laws 1998, LB 1229, § 6.

**79-1107 Learners with high ability; terms, defined.**



For purposes of sections 79-1106 to 79-1108.03:

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

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

(3) Learner with high ability means a student that performs, or has the capacity to perform, at greater levels in one or more domains of instruction in comparison to individuals of the same age, educational experience, or environment and who requires accelerated or differentiated curriculum programs in order to develop those abilities fully.

**Source:** Laws 1994, LB 647, § 2; R.S.1943, (1994), § 79-4002; Laws 1996, LB 900, § 789; Laws 1997, LB 347, § 35; Laws 1998, LB 1229, § 7; Laws 2024, LB1329, § 83.  
Effective date July 19, 2024.

**79-1108 Learners with high ability; identification and programs.**

Each school district shall identify learners with high ability and may provide accelerated or differentiated curriculum programs that will address the educational needs of the identified students at levels appropriate for the abilities of those students. The accelerated or differentiated curriculum programs shall meet the standards of quality established by the department. Educational service units may identify learners with high ability and provide accelerated or differentiated curriculum programs for school districts.

**Source:** Laws 1994, LB 647, § 3; R.S.1943, (1994), § 79-4003; Laws 1996, LB 900, § 790; Laws 1998, LB 1229, § 8; Laws 2011, LB333, § 14.

**79-1108.01 Learners with high ability; school districts; duties.**

School districts shall annually provide the department with a copy of their criteria for identifying learners with high ability, the number of students identified according to the criteria, and the number of students participating in an approved accelerated or differentiated curriculum program. School districts shall also have a list of the students identified and how the students compare to the criteria available for inspection by department personnel.

**Source:** Laws 1998, LB 1229, § 9.

**79-1108.02 Learners with high ability; curriculum programs; funding.**

(1) The department shall, annually on or before October 15, distribute funds appropriated for purposes of this section to (a) local systems as defined in section 79-1003 or (b) a combination of school districts. The funds distributed pursuant to this section shall be distributed based on a pro rata share of the eligible costs submitted in grant applications.

(2) Local systems or combinations of school districts may apply to the department for base funds and matching funds pursuant to this section to be spent on approved accelerated or differentiated curriculum programs. Each eligible local system or combination of school districts shall receive one-tenth of one percent of the appropriation as base funds plus a pro rata share of the remainder of the appropriation based on identified students participating in an accelerated or differentiated curriculum program, up to ten percent of the prior

year's fall membership as defined in section 79-1003, as matching funds. Eligible local systems or combinations of school districts shall:

(a) Provide an approved accelerated or differentiated curriculum program for students identified as learners with high ability;

(b) Provide funds from other sources for the approved accelerated or differentiated curriculum program greater than or equal to fifty percent of the matching funds received pursuant to this subsection;

(c) Provide an accounting of the funds received pursuant to this section, funds required by subdivision (b) of this subsection, and the total cost of the program on or before August 1 of the year following the receipt of funds in a manner prescribed by the department, not to exceed one report per year; and

(d) Provide data regarding the academic progress of students participating in the accelerated or differentiated curriculum program in a manner prescribed by the department, not to exceed one report per year.

If a local system or combination of school districts will not be providing the necessary matching funds pursuant to subdivision (b) of this subsection, the local system or combination of school districts shall request a reduction in the amount received pursuant to this subsection such that the local system or combination of school districts will be in compliance with such subdivision. Local systems or combinations of school districts not complying with the requirements of this subsection shall be ineligible for grant funds in the following year.

**Source:** Laws 1998, LB 1229, § 10; Laws 2011, LB333, § 15; Laws 2017, LB512, § 19; Laws 2018, LB377, § 82; Laws 2024, LB1329, § 84.

Effective date July 19, 2024.

### **79-1108.03 Learners with high ability; rules and regulations.**

The State Board of Education shall adopt and promulgate rules and regulations to implement sections 79-1105 to 79-1108.03, including criteria for the approval of accelerated or differentiated curriculum programs, consistent methods for identification of learners with high ability, and data requirements for measuring academic progress of students participating in the accelerated or differentiated curriculum programs.

**Source:** Laws 1998, LB 1229, § 11; Laws 2024, LB1329, § 85.

Effective date July 19, 2024.

### **79-1109 Repealed. Laws 1997, LB 347, § 59.**

## (c) SPECIAL EDUCATION

### SUBPART (i)–SPECIAL EDUCATION ACT

#### **79-1110 Act, how cited.**

Sections 79-1110 to 79-1167 shall be known and may be cited as the Special Education Act.

**Source:** Laws 1987, LB 367, § 1; Laws 1989, LB 487, § 14; Laws 1993, LB 520, § 22; Laws 1995, LB 742, § 4; R.S.Supp.,1995, § 79-3301; Laws 1996, LB 900, § 792; Laws 1997, LB 346, § 9;

Laws 1997, LB 865, § 3; Laws 1998, Spec. Sess., LB 1, § 46; Laws 1999, LB 813, § 36; Laws 2000, LB 1135, § 23; Laws 2009, LB549, § 39; Laws 2010, LB1087, § 2; Laws 2019, LB675, § 12.

**79-1111 Legislative intent.**

It is the intent of the Legislature that all children in the State of Nebraska, regardless of physical or mental capacity, are entitled to a meaningful educational program.

**Source:** Laws 1987, LB 367, § 2; R.S.1943, (1994), § 79-3302; Laws 1996, LB 900, § 793.

**79-1112 Repealed. Laws 1998, LB 904, § 3.**

**79-1113 Definitions, where found.**

For purposes of the Special Education Act, unless the context otherwise requires, the definitions found in sections 79-1114 to 79-1125.01 shall be used.

**Source:** Laws 1987, LB 367, § 3; Laws 1993, LB 520, § 23; R.S.1943, (1994), § 79-3303; Laws 1996, LB 900, § 795; Laws 1997, LB 865, § 4; Laws 1999, LB 813, § 37; Laws 2010, LB1087, § 3; Laws 2019, LB675, § 13.

**79-1114 Adjusted average per pupil cost of the preceding year, defined.**

Adjusted average per pupil cost of the preceding year means the amount computed by dividing the total instructional expenditure, excluding special education expenditures, by the preceding year's average daily membership as reported in the annual financial report. The costs of sectarian instruction shall not be included in determining the adjusted average per pupil cost of the preceding year, and the computation shall be subject to an audit by appropriate state agencies.

**Source:** Laws 1987, LB 367, § 4; Laws 1991, LB 511, § 67; Laws 1992, LB 245, § 72; R.S.1943, (1994), § 79-3304; Laws 1996, LB 900, § 796.

**79-1115 Allowable costs, defined.**

Allowable costs means salaries, wages, benefits, any medical expenditure by a school district for purposes of providing individualized education plan services for a special education student and health protection to the provider of the services, and maintenance, supplies, travel, and other expenses essential to carry out the provisions for special education and support services.

**Source:** Laws 1987, LB 367, § 5; R.S.1943, (1994), § 79-3305; Laws 1996, LB 900, § 797; Laws 1997, LB 865, § 5; Laws 2000, LB 1243, § 5; Laws 2019, LB675, § 14.

**79-1115.01 Assistive technology device, defined.**

Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off-the-shelf or modified or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

**Source:** Laws 1997, LB 865, § 6; Laws 2019, LB675, § 15.

**79-1116 Average per pupil cost of the service agency, defined.**

Average per pupil cost of the service agency means the amount computed by dividing the total operating expenditure of the preceding year, excluding the cost of sectarian instruction, of the service agency by its preceding year's average daily membership.

**Source:** Laws 1987, LB 367, § 6; R.S.1943, (1994), § 79-3306; Laws 1996, LB 900, § 798; Laws 1997, LB 346, § 10.

**79-1117 Child with a disability, defined.**

Child with a disability means any person having a disability listed in section 79-1118.01 that has been verified pursuant to sections 79-1137 to 79-1139 from the date of such verification until he or she is twenty-one years of age or, if his or her twenty-first birthday occurs during a school year, until the end of such school year.

**Source:** Laws 1993, LB 520, § 24; R.S.1943, (1994), § 79-3306.01; Laws 1996, LB 900, § 799; Laws 1997, LB 346, § 11; Laws 2019, LB675, § 16.

**79-1118 Department, defined.**

Department means the State Department of Education.

**Source:** Laws 2019, LB675, § 17.

**79-1118.01 Disability, defined; diagnosis.**

Disability means an impairment which causes a child to be identified as having at least one of the conditions defined in this section and causes such child to need special education and related services. For purposes of this section:

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

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

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

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

(5) Developmental delay means either (a) a significant delay in function in one or more of the following areas: (i) Cognitive development; (ii) physical development; (iii) communication development; (iv) social or emotional devel-

opment; or (v) adaptive behavior or skills development, or (b) a diagnosed physical or mental condition that has a high probability of resulting in a substantial delay in function in one or more of such areas;

(6) Dyslexia means a specific learning disability under subdivision (13) of this section that (a) is neurobiological in origin, (b) is characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities, (c) typically results from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and effective classroom instruction, and (d) has secondary consequences that may include problems in reading comprehension and reduced reading experience that may impede growth of vocabulary and background knowledge;

(7)(a) Emotional disturbance means a condition in which a student exhibits one or more of the following characteristics over a long period of time and to a marked degree which adversely affects educational performance:

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

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

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

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

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

(b) Emotional disturbance includes schizophrenia but does not include social maladjustment unless a characteristic defined in subdivision (7)(a)(i) or (ii) of this section is also present;

(8) Hard of hearing means a hearing impairment, whether permanent or fluctuating, which adversely affects educational performance but is not included under the term deaf in subdivision (3) of this section;

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

(10) Multiple disabilities means concomitant impairments, such as intellectual disability-blind or intellectual disability-orthopedic impairment, the combination of which causes such severe educational problems that a child with such impairments cannot be accommodated in special education programs for one of the impairments. Multiple disabilities does not include deaf-blind;

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

(12) Other health impaired means having limited strength, vitality, or alertness due to chronic or acute health problems, including, but not limited to, a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell

anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational performance;

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

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

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

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

**Source:** Laws 1987, LB 367, § 9; Laws 1993, LB 348, § 62; R.S.1943, (1994), § 79-3309; Laws 1996, LB 900, § 802; R.S.1943, (1996), § 79-1120; Laws 1997, LB 346, § 12; Laws 1999, LB 813, § 38; Laws 2013, LB23, § 45; Laws 2013, LB410, § 12; Laws 2014, LB967, § 22; Laws 2017, LB645, § 1.

#### **79-1119 Excess cost, defined.**

Excess cost means the difference between the total cost of the special education program excluding residential care minus federal medicaid funds received pursuant to section 43-2511 for services to school-age children excluding amounts designated as reimbursement for costs associated with the implementation and administration of the billing system pursuant to section 43-2511 and minus the product of the number of students in the special education program multiplied by the adjusted average per pupil cost of the preceding year for the school district of residence of each child.

**Source:** Laws 1987, LB 367, § 8; R.S.1943, (1994), § 79-3308; Laws 1996, LB 900, § 801; Laws 2014, LB276, § 6; Laws 2019, LB675, § 18.

#### **79-1119.01 Interim-program school, defined.**

Interim-program school means a school approved by the State Board of Education and located in or operated by (1) a county detention home established under section 43-2,110, (2) a juvenile emergency shelter, or (3) any institution which is a public or private facility, not owned or operated by a

school district, which provides a residential program and regular educational or special education services approved by the State Department of Education.

**Source:** Laws 2010, LB1087, § 4; Laws 2019, LB675, § 19.

**79-1120 Transferred to section 79-1118.01.**

**79-1121 Related services, defined.**

Related services means transportation services and such developmental, corrective, and other supportive services, including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling services, as may be required to assist a child with a disability to benefit from special education and includes the early identification and assessment of disabilities in children. Medical services shall be for diagnostic and evaluation purposes only.

**Source:** Laws 1987, LB 367, § 10; R.S.1943, (1994), § 79-3310; Laws 1996, LB 900, § 803; Laws 1997, LB 346, § 13.

**79-1122 Residential care, defined.**

Residential care means food and lodging and any other related expenses which are not a part of the education program, but residential care does not include expenditures for medical or dental services. Expenditures for medical and dental services shall be the responsibility of the parent or legal guardian.

**Source:** Laws 1987, LB 367, § 13; R.S.1943, (1994), § 79-3312; Laws 1996, LB 900, § 804.

**79-1123 Repealed. Laws 2000, LB 1243, § 10.**

**79-1124 Service agency, defined.**

Service agency means the school district, educational service unit, local or regional office of intellectual disability, interim-program school, or some combination thereof or such other agency as may provide a special education program approved by the State Department of Education, including an institution not wholly owned or controlled by the state or any political subdivision to the extent that it provides educational or other services for the benefit of a child with a disability if such services are nonsectarian in nature.

**Source:** Laws 1987, LB 367, § 14; R.S.1943, (1994), § 79-3313; Laws 1996, LB 900, § 806; Laws 1997, LB 346, § 14; Laws 2010, LB1087, § 5; Laws 2013, LB23, § 46; Laws 2019, LB675, § 20.

**79-1125 Special education, defined.**

Special education means specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a child with a disability, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions. Special education includes speech-language pathology, occupational therapy, and physical therapy if the speech-language pathology or occupational or physical therapy consists of specially

designed instruction, at no cost to the parents or guardians, to meet the unique needs of a child with a disability.

**Source:** Laws 1987, LB 367, § 11; R.S.1943, (1994), § 79-3314; Laws 1996, LB 900, § 807; Laws 1997, LB 346, § 15; Laws 2001, LB 797, § 43.

**79-1125.01 Support services, defined.**

Support services means preventive services for a student that is not identified or verified pursuant to sections 79-1118.01, 79-1138, and 79-1139 but demonstrates a need for specially designed assistance in order to benefit from the school district's general education curriculum and to avoid the need for potentially expensive special education placement and services. Support services include the educational services provided to a child pursuant to subdivision (10)(c) of section 79-215 by an interim-program school or an approved or accredited school maintained by a residential setting if such child has not been identified or verified as a child with a disability pursuant to sections 79-1118.01 and 79-1138 but demonstrates a need for specially designed assistance by residing in a residential setting described in subdivision (10)(a) of section 79-215.

**Source:** Laws 1995, LB 742, § 3; R.S.Supp.,1995, § 79-348; Laws 1996, LB 900, § 867; Laws 1997, LB 346, § 49; Laws 1998, Spec. Sess., LB 1, § 49; R.S.Supp.,1998, § 79-1185; Laws 1999, LB 813, § 51; Laws 2000, LB 1243, § 6; Laws 2010, LB1087, § 6; Laws 2019, LB675, § 21.

**79-1126 Act; to whom applicable; Division of Vocational Rehabilitation; duties.**

The Special Education Act applies to a child with a disability until the child no longer meets the definition of a child with a disability. The Division of Vocational Rehabilitation of the department shall, in compliance with federal guidelines, assume responsibility for the training of those individuals whose education or training under the Special Education Act is terminated and for whom additional supportive services are required.

**Source:** Laws 1973, LB 403, § 6; Laws 1976, LB 761, § 8; Laws 1978, LB 889, § 1; R.S.1943, (1984), § 43-646; Laws 1987, LB 367, § 15; Laws 1990, LB 1090, § 40; R.S.1943, (1994), § 79-3315; Laws 1996, LB 900, § 808; Laws 1997, LB 346, § 16; Laws 2019, LB675, § 22.

The age of twenty-one years is reached upon a person's twenty-first birthday, and, therefore, the term "to age twenty-one years" excludes any persons who have reached their twenty-first birthday. *Monahan v. School Dist. No. 1*, 229 Neb. 139, 425 N.W.2d 624 (1988).

**79-1127 Special education; school board; duties.**

The school board of every school district shall provide or contract for special education programs and transportation for all resident children with disabilities who would benefit from such programs in accordance with the Special Education Act and all applicable requirements of the federal Individuals with



Disabilities Education Act, 20 U.S.C. 1400 et seq., as such sections existed on January 1, 2019, and the regulations adopted thereunder.

**Source:** Laws 1973, LB 403, § 1; Laws 1986, LB 1093, § 2; R.S.Supp.,1986, § 43-641; Laws 1987, LB 367, § 20; R.S.1943, (1994), § 79-3320; Laws 1996, LB 900, § 809; Laws 1997, LB 346, § 17; Laws 2009, LB549, § 40; Laws 2019, LB675, § 23.

**Cross References**

**Option students**, how treated, see section 79-235.

**79-1128 Use of funds; failure to offer acceptable program; effect.**

Any program receiving funds under the Special Education Act shall not use such funds to match state funds under the provisions of other programs. The members of the school board of any school district not offering continuous special education programs acceptable to the State Board of Education shall be in violation of the law. No state funds shall be paid to any school district as long as such violation exists, but no deduction shall be made from any funds required by the Constitution of Nebraska to be paid to such district.

**Source:** Laws 1973, LB 403, § 2; Laws 1974, LB 863, § 5; Laws 1976, LB 761, § 5; Laws 1977, LB 443, § 1; R.S.1943, (1984), § 43-642; Laws 1987, LB 367, § 21; R.S.1943, (1994), § 79-3321; Laws 1996, LB 900, § 810; Laws 1997, LB 346, § 18; Laws 1999, LB 813, § 39; Laws 2013, LB23, § 47; Laws 2019, LB675, § 24.

**79-1129 Children with disabilities; types of services to be furnished; transportation; reimbursement; special instruction.**

(1) The school board of the resident school district shall provide one of the following types of services to children with disabilities:

(a) Provide for the transportation expenses for children with disabilities who are forced to leave the school district temporarily because of lack of educational services. A parent or guardian transporting such a child shall be paid for each day of attendance at the mileage rate provided in section 81-1176 for each actual mile or fraction thereof traveled between the place of residence and the program of attendance, and when any parent or guardian transports more than one child with a disability in his or her custody or control enrolled in programs at the same location, the amount of payments to such parent or guardian shall be based upon the transportation of one such child. No transportation payments shall be made to a parent or guardian for mileage not actually traveled by such parent or guardian;

(b) Provide for the transportation expenses within the school district of any child with a disability who is enrolled in a special educational program of the district when either (i) the child is required to attend a facility other than what would be the normal school or attendance facility of the child to receive appropriate special educational services or (ii) the nature of the child's disability is such that special transportation is required. A parent or guardian transporting such child shall be paid for each day of attendance at the mileage rate provided in section 81-1176 for each actual mile or fraction thereof traveled between the place of residence and the program of attendance, and when any parent or guardian transports more than one child with a disability in his or her custody or control enrolled in programs at the same location, the amount of

payments to such parent or guardian shall be based upon the transportation of one such child. No transportation payments shall be made to a parent or guardian for mileage not actually traveled by such parent or guardian;

(c) Provide visiting teachers for homebound children with disabilities. Such teachers shall be certified and qualified in the same manner as required for other teachers in Nebraska;

(d) Provide correspondence instruction approved by the Commissioner of Education; or

(e) Provide any other method of instruction approved by the Commissioner of Education.

(2) When a child with a disability resides in or attends a preschool or child care program in a school district other than the school district of residence of his or her parents or guardian, the nonresident school district may, upon mutual agreement with the school district of residence, provide for the transportation expenses of the child.

**Source:** Laws 1941, c. 82, § 4, p. 328; C.S.Supp.,1941, § 79-3004; R.S. 1943, § 43-607; Laws 1949, c. 131, § 4, p. 343; Laws 1967, c. 254, § 1, p. 674; Laws 1967, c. 526, § 2, p. 1747; Laws 1969, c. 345, § 1, p. 1211; Laws 1972, LB 690, § 4; Laws 1974, LB 92, § 1; Laws 1976, LB 761, § 2; Laws 1980, LB 867, § 1; Laws 1981, LB 204, § 65; Laws 1982, LB 942, § 4; R.S.1943, (1984), § 43-607; Laws 1987, LB 367, § 22; Laws 1990, LB 1090, § 41; Laws 1991, LB 700, § 1; Laws 1995, LB 401, § 43; R.S.Supp.,1995, § 79-3322; Laws 1996, LB 900, § 811; Laws 1997, LB 346, § 19; Laws 2019, LB675, § 25.

#### Cross References

**Option enrollment program**, resident school district provide transportation services, see section 79-241.

Types of education to be furnished to handicapped children are prescribed by this section. *Schutte v. Decker*, 164 Neb. 582, 83 N.W.2d 69 (1957).

#### **79-1130 Transportation services; legislative intent; department; duties; cooperative arrangement.**

(1) It is the intent of the Legislature that transportation services for children with disabilities prescribed in section 79-1129 shall be provided in the most cost-efficient manner consistent with the goal of providing free appropriate special education to all such children. The Legislature finds that educational service units and special education cooperatives created by school districts and recognized by the department are in a unique position to improve the coordination and efficiency of transportation services in all areas of the state. It is the intent of the Legislature to authorize and encourage school districts, educational service units, and special education cooperatives to jointly plan, coordinate, and, where feasible, provide transportation services for children with disabilities. The department shall review and approve, approve with modifications, or disapprove all transportation applications to ensure the implementation of the most cost-efficient transportation system, consistent with the goal of providing free appropriate special education to all children.

(2) School districts, educational service units, and special education cooperatives created by school districts and recognized by the department are authorized to jointly plan, coordinate, and, where feasible, provide special education

transportation services prescribed in section 79-1129. Any educational service unit or special education cooperative may enter into a cooperative arrangement with a school board for the provision of such transportation services. Such arrangement shall be approved by the department, and upon approval of the arrangement the educational service unit or special education cooperative providing the transportation services shall be eligible to receive direct reimbursement for such services pursuant to section 79-1144.

**Source:** Laws 1986, LB 942, § 4; R.S.Supp.,1986, § 43-607.02; Laws 1987, LB 367, § 23; R.S.1943, (1994), § 79-3323; Laws 1996, LB 900, § 812; Laws 1997, LB 346, § 20; Laws 2019, LB675, § 26.

**79-1131 Education programs; children with disabilities who are less than five years of age; voluntary.**

Participation in or attendance at programs by children with disabilities who are less than five years of age shall be voluntary as specified by the parent or guardian. Programs serving children with disabilities who are less than three years of age shall, to the greatest extent possible, be based upon providing parent training in the home environment.

**Source:** Laws 1976, LB 761, § 10; Laws 1978, LB 889, § 2; R.S.1943, (1984), § 43-646.01; Laws 1987, LB 367, § 24; R.S.1943, (1994), § 79-3324; Laws 1996, LB 900, § 813; Laws 1997, LB 346, § 21.

**79-1132 Special education programs; children less than five years of age; department provide grants.**

The department shall provide grants for the costs of the special education programs approved by the department to the school district of residence for children with disabilities who are less than five years of age.

**Source:** Laws 1978, LB 889, § 3; Laws 1980, LB 765, § 1; Laws 1986, LB 942, § 8; R.S.Supp.,1986, § 43-646.02; Laws 1987, LB 367, § 25; Laws 1995, LB 742, § 5; R.S.Supp.,1995, § 79-3325; Laws 1996, LB 900, § 814; Laws 1997, LB 346, § 22; Laws 1998, Spec. Sess., LB 1, § 47; Laws 2001, LB 797, § 44; Laws 2019, LB675, § 27.

**79-1133 Special education programs; student less than five years of age; school district; amount paid to service agency; determination.**

Each school district shall pay an amount equal to the average per pupil cost of the service agency of the preceding year or the cost as agreed upon pursuant to the contract to the agency providing the educational program for every child with a disability who is less than five years of age, who is a resident of the district, and who is attending an educational program not operated by the school district, including programs operated by the State Department of Education, the Department of Health and Human Services, and any other service agency whose programs are approved by the State Department of Education.

**Source:** Laws 1978, LB 889, § 4; R.S.1943, (1984), § 43-646.03; Laws 1987, LB 367, § 26; R.S.1943, (1994), § 79-3326; Laws 1996, LB 900, § 815; Laws 1996, LB 1044, § 821; Laws 1997, LB 346, § 23.

**79-1134 Repealed. Laws 1999, LB 813, § 62.**

**79-1135 Children with disabilities who are less than five years of age; regional plan of services; school district; participation; supplementary amendments.**

Each school district shall demonstrate participation in a plan of services for children with disabilities who are less than five years of age. Such plans shall be prepared on a regional basis as determined by the department and updated annually.

The content of plans shall be prescribed by the department.

Supplementary amendments to any program plans may be submitted on dates specified by the department during the same school year and shall be subject to the same review as the initial plans.

**Source:** Laws 1978, LB 889, § 9; Laws 1986, LB 942, § 9; R.S.Supp.,1986, § 43-646.08; Laws 1987, LB 367, § 28; R.S. 1943, (1994), § 79-3328; Laws 1996, LB 900, § 817; Laws 1997, LB 346, § 25; Laws 1999, LB 813, § 40; Laws 2003, LB 67, § 24; Laws 2019, LB675, § 28.

**79-1136 Sections, how construed.**

Sections 79-1131 to 79-1136 do not prevent funding from sources other than the public schools for the program for children with disabilities who are less than five years of age.

**Source:** Laws 1978, LB 889, § 10; R.S.1943, (1984), § 43-646.09; Laws 1987, LB 367, § 29; R.S.1943, (1994), § 79-3329; Laws 1996, LB 900, § 818; Laws 1997, LB 346, § 26; Laws 2019, LB675, § 29.

**79-1137 Legislative findings and intent.**

The Legislature finds and declares that there is a need to establish a process and criteria to assess, identify, and verify children who may require special education. Research-based criteria and a rational process for the assessment of children who may require special education will lead to greater equity, consistency, and efficiency in the identification of and the provision of services to such children. It is the intent of the Legislature that all children who require special education services shall be identified and verified pursuant to such criteria and process.

**Source:** Laws 1986, LB 942, § 1; R.S.Supp.,1986, § 43-605; Laws 1987, LB 367, § 16; R.S.1943, (1994), § 79-3316; Laws 1996, LB 900, § 819; Laws 1997, LB 346, § 27.

**79-1138 Disabilities; assessment, identification, and verification of need for services; Commissioner of Education; duties.**

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

(2) The Commissioner of Education shall develop guidelines to assist school districts, educational service units, and approved cooperatives with the assess-

ment, identification, and verification of the need for related services defined in section 79-1121.

**Source:** Laws 1986, LB 942, § 2; R.S.Supp.,1986, § 43-605.01; Laws 1987, LB 367, § 17; R.S.1943, (1994), § 79-3317; Laws 1996, LB 900, § 820; Laws 1997, LB 346, § 28; Laws 1997, LB 865, § 7; Laws 1999, LB 813, § 41; Laws 2019, LB675, § 30.

**79-1139 Special education programs and services; children eligible.**

Each school district shall include only students identified and verified pursuant to sections 79-1137 and 79-1138 in special education programs and shall not provide special education services pursuant to the Special Education Act to any child who has not been so identified and verified.

**Source:** Laws 1986, LB 942, § 3; R.S.Supp.,1986, § 43-605.02; Laws 1987, LB 367, § 18; R.S.1943, (1994), § 79-3318; Laws 1996, LB 900, § 821; Laws 2019, LB675, § 31.

**79-1140 School district; amount paid to service agency; determination.**

Except as provided in sections 79-232 to 79-246, each school district shall pay an amount equal to the average per pupil cost of the service agency of the preceding year or the cost as agreed upon pursuant to the contract to the agency providing the educational program for every child with a disability who is a resident of the district and is attending an educational program not operated by the school district, including programs operated by the State Department of Education, the Department of Health and Human Services, and any other service agency whose programs are approved by the State Department of Education.

**Source:** Laws 1973, LB 403, § 7; Laws 1974, LB 863, § 6; Laws 1977, LB 443, § 3; Laws 1978, LB 871, § 12; R.S.1943, (1984), § 43-647; Laws 1987, LB 367, § 30; Laws 1989, LB 183, § 22; R.S.1943, (1994), § 79-3330; Laws 1996, LB 900, § 822; Laws 1996, LB 1044, § 822; Laws 1997, LB 346, § 29; Laws 1997, LB 347, § 36; Laws 1999, LB 813, § 42; Laws 2016, LB1067, § 56.

**Cross References**

**Option enrollment program**, exemption from payment responsibility for resident school district, see section 79-246.

**79-1141 Repealed. Laws 1999, LB 813, § 62.**

**79-1142 Department; reimbursement for special education programs and support services; to whom; manner; limitations; transfers.**

(1) Level I services refers to services provided to children with disabilities who require an aggregate of not more than three hours per week of special education services and support services and includes all administrative, diagnostic, consultative, and vocational-adjustment counselor services.

(2) The total allowable reimbursable cost for support services shall not exceed a percentage, established by the State Board of Education, of the school district's or approved cooperative's total allowable reimbursable cost for all special education programs and support services. The percentage established by the board for support services shall not exceed the difference of ten percent minus the percentage of the appropriations for special education approved by

the Legislature set aside for reimbursements for support services pursuant to subsection (5) of this section.

(3) Except as provided in subsection (6) of this section, for special education and support services provided in each school fiscal year, the department shall reimburse each school district in the following school fiscal year eighty percent of the total allowable excess costs for all special education programs and support services. Cooperatives of school districts or educational service units shall also be eligible for reimbursement for cooperative programs pursuant to this section if such cooperatives or educational service units have complied with the reporting and approval requirements of section 79-1155 for cooperative programs which were offered in the preceding school fiscal year.

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

(b) If the General Fund appropriations for special education approved by the Legislature, minus the amounts set aside pursuant to subsection (5) of this section, are insufficient to reimburse eighty percent of the total allowable excess costs for all special education programs and support services for any school fiscal year:

(i) Such allowable excess costs shall be reimbursed from the General Fund appropriations for special education approved by the Legislature, minus the amounts set aside pursuant to subsection (5) of this section, on a pro rata basis at the maximum rate of reimbursement such appropriations will allow as determined by the department; and

(ii) The remainder of the eighty percent reimbursement of such allowable excess costs shall be paid from the Education Future Fund.

(5) Residential settings described in subdivision (10)(c) of section 79-215 shall be reimbursed for the educational services, including special education services and support services, in an amount determined pursuant to the average per pupil cost of the service agency. Reimbursements pursuant to this section shall be made from funds set aside for such purpose within sixty days after receipt of a reimbursement request submitted in the manner required by the department and including any documentation required by the department for educational services that have been provided, except that if there are not any funds available for the remainder of the state fiscal year for such reimbursements, the reimbursement shall occur within thirty days after the beginning of the immediately following state fiscal year. The department may audit any required documentation and subtract any payments made in error from future reimbursements. The department shall set aside separate amounts from the appropriations for special education approved by the Legislature for reimbursements pursuant to this subsection for students receiving special education services and for students receiving support services for each state fiscal year. The amounts set aside for each purpose shall be based on estimates of the reimbursements to be requested during the state fiscal year and shall not be less than the total

amount of reimbursements requested in the prior state fiscal year plus any unpaid requests from the prior state fiscal year.

(6) For each school district that received a payment pursuant to the Extraordinary Increase in Special Education Expenditures Act in the school fiscal year for which special education expenditures were reimbursed pursuant to subsection (3) of this section, an amount equal to such payment shall be subtracted from the reimbursement calculated pursuant to subsection (3) of this section and such amount shall be transferred to the Education Future Fund.

(7) On or before November 15 of each year, the department shall submit to the Governor, the Appropriations Committee of the Legislature, and the Education Committee of the Legislature:

(a) The total allowable excess costs for all special education programs and support services for all school districts, cooperatives of school districts, and educational service units; and

(b) The total reimbursements requested pursuant to subsection (5) of this section for the most recently completed school fiscal year.

**Source:** Laws 1973, LB 403, § 8; Laws 1975, LB 555, § 4; Laws 1975, Spec. Sess., LB 3, § 1; Laws 1976, LB 903, § 1; Laws 1986, LB 929, § 1; Laws 1986, LB 942, § 10; Laws 1986, Fourth Spec. Sess., LB 2, § 2; R.S.Supp.,1986, § 43-648; Laws 1987, LB 367, § 32; Laws 1987, LB 413, § 1; Laws 1995, LB 742, § 6; R.S.Supp.,1995, § 79-3332; Laws 1996, LB 900, § 824; Laws 1997, LB 346, § 30; Laws 1997, LB 865, § 8; Laws 1998, Spec. Sess., LB 1, § 48; Laws 1999, LB 813, § 43; Laws 2000, LB 1243, § 7; Laws 2001, LB 797, § 45; Laws 2010, LB1087, § 7; Laws 2019, LB675, § 32; Laws 2023, LB583, § 11; Laws 2023, LB705, § 92.

#### Cross References

Extraordinary Increase in Special Education Expenditures Act, see section 79-10,148.  
Option enrollment program, determination of reimbursement, see section 79-246.

#### 79-1143 Fiscal year for purposes of act.

The fiscal year for all programs reimbursed pursuant to the Special Education Act shall begin on September 1 of each year and end on August 31 of the following year. Funds appropriated for any period ending on June 30 of a given year for actual transportation expenses for children with disabilities pursuant to section 79-1129 may be spent or obligated through August 31 of that year for such purpose.

**Source:** Laws 1989, LB 487, § 15; R.S.1943, (1994), § 79-3332.01; Laws 1996, LB 900, § 825; Laws 1997, LB 346, § 31.

#### Cross References

School fiscal year, see section 79-1091.

#### 79-1144 Children with disabilities; education; funds; department; expenditures authorized.

(1) Funds shall be appropriated by the Legislature to carry out sections 79-1142 to 79-1144 and 79-1147 and included in the budget of the department. The department is authorized to expend such funds upon proper vouchers approved by the department and warrants issued by the Director of Administra-

tive Services for financial reimbursement to school districts, educational service units, special education cooperatives created by school districts, agencies, and parents or guardians, including (a) reimbursement pursuant to section 79-1129 for actual transportation expenses per year for children with disabilities a pro rata amount which shall be determined by the department from appropriations for special education approved by the Legislature based on all actual allowable transportation costs, (b) reimbursement for instructional aids and consultative, supervisory, research, and testing services to school districts, and (c) reimbursement for salaries, wages, maintenance, supplies, travel, and other expenses essential to carrying out the provisions for special education programs. Minor building modifications shall not be eligible for state reimbursement as an allowable expense. Applications for state reimbursement for actual transportation expenses shall be submitted to the department annually on a date and on forms prescribed by the department. Amendments to applications for actual transportation expenses shall be submitted on dates prescribed by the department.

(2) Any adjustment of payments pursuant to section 79-1065 caused by the failure of a school district to meet federal spending requirements under the federal Individuals with Disabilities Education Act as such act existed on January 1, 2019, may be used by the department to reimburse the United States Department of Education in the amount of the federal funds awarded to such school district or the amount of such adjustment, whichever is less.

**Source:** Laws 1949, c. 131, § 8, p. 345; Laws 1963, c. 256, § 1, p. 777; Laws 1967, c. 526, § 4, p. 1749; Laws 1971, LB 178, § 1; Laws 1971, LB 977, § 2; Laws 1972, LB 690, § 5; Laws 1973, LB 102, § 2; Laws 1974, LB 92, § 2; Laws 1986, LB 1093, § 1; Laws 1986, LB 942, § 6; Laws 1986, LB 1177, § 20; R.S.Supp.,1986, § 43-611; Laws 1987, LB 367, § 33; Laws 1992, Third Spec. Sess., LB 15, § 1; Laws 1993, LB 597, § 1; Laws 1994, LB 858, § 12; Laws 1995, LB 742, § 7; R.S.Supp.,1995, § 79-3333; Laws 1996, LB 900, § 826; Laws 1997, LB 346, § 32; Laws 1999, LB 813, § 44; Laws 2017, LB512, § 20; Laws 2019, LB675, § 33.

**79-1145 Appropriation of General Funds; limitation.**

For each fiscal year, the aggregate amount of General Funds appropriated for special education programs and support services pursuant to sections 79-1129, 79-1132, and 79-1144 shall not exceed the aggregate amount of General Funds appropriated pursuant to such sections for the previous fiscal year, increased by ten percent.

**Source:** Laws 1995, LB 742, § 8; R.S.Supp.,1995, § 79-3333.01; Laws 1996, LB 900, § 827; Laws 1999, LB 813, § 45; Laws 2000, LB 1243, § 8; Laws 2014, LB276, § 7; Laws 2014, LB974, § 3; Laws 2019, LB675, § 34.

**79-1146 Handicapped children; school district; educational service unit; contract for services.**

The school district or educational service unit which received such funds as provided in section 79-1144 may contract with another school district, educational service unit, state school, or public agency.

**Source:** Laws 1971, LB 178, § 2; R.S.1943, (1984), § 43-611.01; Laws 1987, LB 367, § 35; R.S.1943, (1994), § 79-3334; Laws 1996, LB 900, § 828.



**79-1147 Temporary residential care; payment by state; when.**

Whenever a child with a disability must temporarily reside in a residential facility, boarding home, or foster home in order to receive an appropriate special education program, the State of Nebraska shall provide for the ordinary and reasonable cost of the residential care during the duration of the special education program. The state shall not be required to pay such cost unless placement of the child in a special education program requiring residential care was made by the school district of residence with the prior approval of the department or was made pursuant to sections 79-1162 to 79-1167.

**Source:** Laws 1987, LB 367, § 34; R.S.1943, (1994), § 79-3335; Laws 1996, LB 900, § 829; Laws 1997, LB 346, § 33; Laws 2019, LB675, § 35.

**79-1148 Children with disabilities; regional networks, schools, or centers; authorized.**

The department is authorized to set up one or more statewide regional networks, approved schools, or centers for children with disabilities. Any such regional network, school, or center may offer residential facilities or services for such children, and such services shall be under the control and supervision of the department.

**Source:** Laws 1957, c. 388, § 1, p. 1347; R.R.S.1943, § 83-246; Laws 1961, c. 209, § 1, p. 624; Laws 1972, LB 690, § 9; Laws 1978, LB 871, § 28; R.S.1943, (1984), § 43-617; Laws 1987, LB 367, § 37; R.S.1943, (1994), § 79-3337; Laws 1996, LB 900, § 830; Laws 1997, LB 346, § 34; Laws 1999, LB 813, § 46; Laws 2009, LB549, § 41; Laws 2019, LB675, § 36.

**79-1149 Regional network, school, or center; admission; rules and regulations.**

The admission to any regional network, school, or center, as provided by section 79-1148, shall be by rules and regulations adopted and promulgated by the State Board of Education.

**Source:** Laws 1957, c. 388, § 2, p. 1347; R.R.S.1943, § 83-247; Laws 1961, c. 209, § 2, p. 624; R.S.1943, (1984), § 43-618; Laws 1987, LB 367, § 38; R.S.1943, (1994), § 79-3338; Laws 1996, LB 900, § 831; Laws 2009, LB549, § 42; Laws 2019, LB675, § 37.

**79-1150 Regional network, school, or center; remittance of money.**

All money derived from any source other than General Fund appropriations by any regional network, school, or center as provided in sections 79-1148 and 79-1149 shall be remitted to the State Treasurer for credit to the State Department of Education Cash Fund, and such money shall be made available to any such regional network, school, or center for purposes of education, training, or maintenance of students.

**Source:** Laws 1965, c. 382, § 2, p. 1234; Laws 1972, LB 1000, § 3; Laws 1978, LB 871, § 29; R.S.1943, (1984), § 43-619; Laws 1987, LB 367, § 39; R.S.1943, (1994), § 79-3339; Laws 1996, LB 900, § 832; Laws 2009, LB549, § 43.

**79-1151 Residential schools; emergency cash fund; established; use.**

An emergency cash fund shall be established on behalf of any school as provided for by sections 79-1148 and 79-1149. The fund shall not exceed five hundred dollars. Such emergency cash fund shall be used to provide for immediate and unusual needs as may be required and shall be reimbursed from the General Fund appropriation of each such school.

**Source:** Laws 1996, LB 900, § 833.

**79-1152 Repealed. Laws 2019, LB675, § 57.****79-1153 Repealed. Laws 2019, LB675, § 57.****79-1154 Department; review special training and educational programs.**

The department shall review special training and educational programs offered by or in conjunction with any public school district, combination of public school districts, educational service unit, or combination of educational service units subject to the following:

- (1) Each teacher in any such special program shall be qualified;
- (2) Teacher aides working with any such program shall have such qualifications as the governing body of the school district, educational service unit, or combination shall prescribe and shall participate in appropriate inservice activities; and
- (3) Each qualified teacher shall be responsible for the direct supervision of teacher aides, whose duties shall be limited to those prescribed in section 79-802.

For purposes of this section, qualified teacher means an individual holding a valid State of Nebraska teaching or special services certificate with an endorsement appropriate to the disabilities served. If such teacher is serving children with more than one disability, qualified teacher means an individual holding a valid State of Nebraska teaching or special services certificate with an endorsement in at least one of the disabilities served.

**Source:** Laws 1967, c. 246, § 1, p. 650; Laws 1972, LB 690, § 12; Laws 1973, LB 403, § 15; Laws 1974, LB 863, § 4; Laws 1976, LB 761, § 4; R.S.1943, (1984), § 43-625; Laws 1987, LB 367, § 40; R.S. 1943, (1994), § 79-3340; Laws 1996, LB 900, § 836; Laws 1997, LB 346, § 37; Laws 2019, LB675, § 38.

**Cross References**

Special education course work, requirements for entry-level certificate, see section 79-809.

**79-1155 Special education programs; reports; special education program application; review and approval.**

All school districts shall, on a date prescribed by the department, file with the department application information for special education programs and support services. Cooperatives of school districts or educational service units applying for grants or reimbursement for programs pursuant to section 79-1132, 79-1142, or 79-1144 shall also file application information pursuant to this section. The application forms shall conform to reporting requirements provided in section 79-1156. The department shall review and take action to approve, approve with modifications, or disapprove the application for special

education programs of the school district, cooperative of school districts, or educational service unit. Supplementary amendments to any program application previously approved by the department may be submitted on dates specified by the department during the same school year and shall be subject to the same review and approval as the initial application. The department shall approve, approve with modifications, or disapprove all supplementary amendments to the program application. All final financial reports on special education and support services costs shall be reported to the department by October 31 of each year for the preceding school year on forms prescribed by the department. Any program that provides residential care shall show the costs of such care separately from the costs of the education program.

**Source:** Laws 1973, LB 403, § 3; Laws 1976, LB 761, § 6; Laws 1986, LB 942, § 7; R.S.Supp.,1986, § 43-643; Laws 1987, LB 367, § 43; R.S.1943, (1994), § 79-3343; Laws 1996, LB 900, § 837; Laws 1997, LB 346, § 38; Laws 1997, LB 710, § 25; Laws 1997, LB 865, § 9; Laws 1999, LB 813, § 47; Laws 2001, LB 797, § 46; Laws 2003, LB 67, § 25; Laws 2019, LB675, § 39.

**79-1156 Special education and support services programs; coordination; application required.**

The department shall coordinate information reporting requirements for special education and support services programs with other educational data reporting requirements of the department to the extent possible. The application for programs shall contain the information required by the department.

**Source:** Laws 1973, LB 403, § 9; Laws 1985, LB 518, § 4; Laws 1986, LB 942, § 11; R.S.Supp.,1986, § 43-649; Laws 1987, LB 367, § 44; R.S.1943, (1994), § 79-3344; Laws 1996, LB 900, § 838; Laws 1997, LB 346, § 39; Laws 1997, LB 865, § 10; Laws 1999, LB 813, § 48; Laws 2003, LB 67, § 26; Laws 2019, LB675, § 40.

**79-1157 Special education programs; review; evaluation.**

All special education programs shall be reviewed by the department.

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

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

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

(3) A detailed description of the effectiveness of the programs or services.

**Source:** Laws 1973, LB 403, § 12; R.S.1943, (1984), § 43-650; Laws 1987, LB 367, § 45; Laws 1990, LB 1090, § 42; R.S.1943, (1994), § 79-3345; Laws 1996, LB 900, § 839; Laws 1997, LB 346, § 40; Laws 1999, LB 813, § 49; Laws 2019, LB675, § 41.

**79-1158 Special education and support services programs; reimbursement; when.**

No reimbursement for special education and support services programs shall be allowed unless the program meets the standards established by the department.

**Source:** Laws 1973, LB 403, § 13; Laws 1976, LB 761, § 9; R.S.1943, (1984), § 43-651; Laws 1987, LB 367, § 46; R.S.1943, (1994), § 79-3346; Laws 1996, LB 900, § 840; Laws 1997, LB 865, § 11; Laws 2019, LB675, § 42.

**79-1159 Department; school district; technical assistance; advisory capacity.**

The department, upon the request of any school district, shall provide technical assistance in the promulgation of any plan, program, or report required by the Special Education Act. Such assistance shall be given only in an advisory capacity and shall not be designed or construed to transfer, either in whole or in part, the responsibility for or actual development or implementation of such plan, program, or report.

**Source:** Laws 1973, LB 403, § 22; R.S.1943, (1984), § 43-653; Laws 1987, LB 367, § 47; R.S.1943, (1994), § 79-3347; Laws 1996, LB 900, § 841; Laws 2019, LB675, § 43.

**79-1159.01 Department; assistive technology devices registry.**

The department shall establish a registry for assistive technology devices to encourage and facilitate cooperation and shared usage of assistive technology devices. Participation by school districts, educational service units, and approved cooperatives shall be voluntary.

**Source:** Laws 1997, LB 865, § 13; Laws 2019, LB675, § 44.

**79-1160 State Board of Education; rules and regulations.**

The State Board of Education may adopt, promulgate, and publish rules and regulations necessary to carry out the Special Education Act.

**Source:** Laws 1973, LB 403, § 29; R.S.1943, (1984), § 43-660; Laws 1987, LB 367, § 48; R.S.1943, (1994), § 79-3348; Laws 1996, LB 900, § 842; Laws 1996, LB 1044, § 825; Laws 1997, LB 346, § 41; Laws 2019, LB675, § 45.

**79-1161 Child with a disability; school district; protect rights of child; assignment of surrogate parent.**

(1) School districts shall establish and maintain procedures to protect the rights of a child with a disability whenever (a) no parents of the child can be identified, (b) the school district cannot, after reasonable efforts, locate a parent of the child, (c) the child is a ward of the state, or (d) the child is an unaccompanied or homeless youth as defined in 42 U.S.C. 11434a, as such

section existed on January 1, 2019. Such procedures shall include the assignment of an individual to act as a surrogate for the parents. The school district shall make reasonable efforts to ensure the assignment of a surrogate not more than thirty days after there is a determination by the district that the child needs a surrogate. In the case of a child who is a ward of the state, such surrogate may alternatively be appointed by the judge overseeing the child's care if the surrogate meets the requirements of subdivision (2)(c) of this section.

(2) The surrogate parent shall (a) have no interest which conflicts with the interest of the child, (b) have knowledge and skills that insure adequate representation, and (c) not be an employee of any agency involved in the care or education of the child. A person otherwise qualified to be a surrogate parent under this subsection is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent. The surrogate parent appointed under this section may represent the child in all matters relating to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education to the child.

(3) The services of the surrogate parent shall be terminated when (a) the child is no longer eligible under subsection (1) of this section, (b) a conflict of interest develops between the interest of the child and the interest of the surrogate parent, or (c) the surrogate parent fails to fulfill his or her duties as a surrogate parent. Issues arising from the selection, appointment, or removal of a surrogate parent by a school district shall be resolved through hearings established under sections 79-1162 to 79-1167. The surrogate parent and the school district which appointed the surrogate parent shall not be liable in civil actions for damages for acts of the surrogate parent unless such acts constitute willful and wanton misconduct.

**Source:** Laws 1988, LB 165, § 1; R.S.1943, (1994), § 79-4,147; Laws 1996, LB 900, § 843; Laws 1997, LB 346, § 42; Laws 2009, LB549, § 44; Laws 2019, LB675, § 46.

**79-1162 Identification, evaluation, or educational placement; hearing; copy of procedures provided; reimbursement.**

A parent, guardian, competent student of the age of majority, or school district may initiate a hearing on matters related to the initiation, change, or termination or the refusal to initiate, change, or terminate the identification, evaluation, or educational placement of a child with a disability or the provision of a free appropriate public education or records relating thereto. A copy of the procedures specified in rules and regulations of the department for complaints and hearings under this section shall be provided by school districts to all parents and guardians of children with disabilities upon initial consideration of the provision of services for their children with disabilities. Such hearing shall be initiated by filing a petition with the department.

**Source:** Laws 1978, LB 871, § 4; Laws 1985, LB 518, § 5; R.S.Supp.,1986, § 43-661; Laws 1987, LB 367, § 49; R.S.1943, (1994), § 79-3349; Laws 1996, LB 900, § 844; Laws 1997, LB 346, § 43; Laws 2001, LB 797, § 47; Laws 2019, LB675, § 47.

Insofar as a State is required to provide a handicapped student with a "free appropriate public education" it satisfies that requirement by providing personalized instruction with sufficient support services to permit the student to benefit edu-

cationally from that instruction. *Adams Central School Dist. v. Deist*, 215 Neb. 284, 338 N.W.2d 591 (1983).

Parent must exhaust administrative remedies before asking a federal court to direct a different placement than that ordered

by school. *Monahan v. State of Nebraska*, 687 F.2d 1164 (8th Cir. 1982).

**79-1163 Department; conduct hearings; hearing officers; employed; qualifications; jurisdiction.**

The department shall conduct hearings initiated under section 79-1162 using hearing officers and may employ, retain, or approve such qualified hearing officers as are necessary to conduct hearings provided by sections 79-1162 to 79-1167. The hearing officers shall not be persons who are employees or officers of a state or local public agency which is involved in the education or care of the child with a disability on whose behalf the hearing is being held. A person who otherwise qualifies to conduct a hearing under such sections is not an employee of the agency solely because the person is paid by the agency to serve as a hearing officer. No hearing officer shall participate in any way in any hearing or matter in which the hearing officer may have a conflict of interest. Hearing officers appointed and assigned by the department shall have exclusive original jurisdiction over cases arising under such sections, and juvenile courts shall not in any event have jurisdiction over such matters.

**Source:** Laws 1978, LB 871, § 5; Laws 1980, LB 855, § 1; Laws 1985, LB 518, § 6; R.S.Supp.,1986, § 43-662; Laws 1987, LB 367, § 50; R.S.1943, (1994), § 79-3350; Laws 1996, LB 900, § 845; Laws 1997, LB 346, § 44; Laws 2019, LB675, § 48.

**79-1164 Hearing; hearing officer; duties.**

Upon the receipt of a petition filed under section 79-1162, the department shall assign it to a hearing officer. The hearing officer shall receive all subsequent pleadings and shall conduct the hearing. At the hearing the parties shall present evidence on the issues raised in the pleadings. At the completion of the proceedings, the hearing officer shall prepare a report based on the evidence presented containing findings of fact and conclusions of law. Within forty-five days after the receipt of a request for a hearing, the hearing officer shall prepare a final decision and order directing such action as may be necessary. At the request of either party for good cause shown, the hearing officer may grant specific extensions of time beyond this period. The report and the final decision and order shall be delivered via certified mail to each party or attorney of record and to the Commissioner of Education.

**Source:** Laws 1980, LB 855, § 2; Laws 1985, LB 518, § 7; R.S.Supp.,1986, § 43-662.01; Laws 1987, LB 367, § 51; R.S. 1943, (1994), § 79-3351; Laws 1996, LB 900, § 846; Laws 2019, LB675, § 49.

A hearing officer may grant compensatory relief under this section as an action that may be necessary. *Adams Central School Dist. v. Deist*, 214 Neb. 307, 334 N.W.2d 775 (1983).

**79-1165 Hearing; party; rights; enumerated.**

Any party at a hearing conducted under sections 79-1163 and 79-1164 shall have the right to:

- (1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;
- (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

- (3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;
- (4) Obtain a written or electronic verbatim record of the hearing; and
- (5) Obtain written findings of fact and decisions.

The hearing officer may also produce evidence on the officer's own motion.

**Source:** Laws 1978, LB 871, § 7; R.S.1943, (1984), § 43-664; Laws 1987, LB 367, § 52; R.S.1943, (1994), § 79-3352; Laws 1996, LB 900, § 847; Laws 1997, LB 346, § 45.

**79-1166 Hearing officer; subpoena witnesses; fees and expenses; failure to respond; contempt.**

The hearing officer has the power by subpoena to compel the appearance of witnesses and the production of any relevant evidence. Any witness compelled to attend or produce evidence shall be entitled to the fees and expenses allowed in district court. Any failure to respond to such subpoena shall be certified by the hearing officer to the district court of Lancaster County for enforcement or for punishment for contempt of the district court.

**Source:** Laws 1978, LB 871, § 8; R.S.1943, (1984), § 43-665; Laws 1987, LB 367, § 53; R.S.1943, (1994), § 79-3353; Laws 1996, LB 900, § 848.

**79-1167 Hearing officer; findings, decision, or order; judicial review.**

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

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

(3) The filing of a petition for judicial review shall operate to stay the enforcement of the final decision and order of the hearing officer. While judicial proceedings are pending and unless the school district and the parent or guardian otherwise agree, the child with a disability shall remain in his or her current educational placement or if applying for initial admission to a public school such child shall, with the consent of the parent or guardian, be placed in the public school program until all such proceedings have been completed. If the decision of the hearing officer agrees with the parent or guardian of the child that a change in placement is appropriate, then that placement shall be treated as an agreement between the parties for purposes of this subsection.

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

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

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

(7) Proceedings for enforcement of a hearing officer's final decision and order shall be instituted by filing a petition for appropriate relief in the district court of the county in which the main administrative offices of the school district are located within one year after the date of the hearing officer's final decision and order.

**Source:** Laws 1978, LB 871, § 9; Laws 1980, LB 855, § 3; Laws 1983, LB 511, § 1; R.S.1943, (1984), § 43-666; Laws 1987, LB 367, § 54; Laws 1991, LB 732, § 147; Laws 1993, LB 348, § 63; R.S.1943, (1994), § 79-3354; Laws 1996, LB 900, § 849; Laws 1997, LB 346, § 46; Laws 1999, LB 813, § 50; Laws 2003, LB 67, § 27; Laws 2019, LB675, § 50.

**79-1168 Repealed. Laws 2009, LB 549, § 53.**

**79-1169 Repealed. Laws 2009, LB 549, § 53.**

**79-1170 Repealed. Laws 2009, LB 549, § 53.**

**79-1171 Repealed. Laws 2009, LB 549, § 53.**

**79-1172 Repealed. Laws 2009, LB 549, § 53.**

**79-1173 Repealed. Laws 2009, LB 549, § 53.**

**79-1174 Repealed. Laws 2009, LB 549, § 53.**

**79-1175 Repealed. Laws 2009, LB 549, § 53.**

**79-1176 Repealed. Laws 2009, LB 549, § 53.**

**79-1177 Repealed. Laws 2009, LB 549, § 53.**

**79-1178 Repealed. Laws 2009, LB 549, § 53.**

**79-1179 Repealed. Laws 1998, LB 904, § 3.**

**79-1180 Repealed. Laws 1998, LB 904, § 3.**

**79-1181 Repealed. Laws 1998, LB 904, § 3.**

**79-1182 Repealed. Laws 1998, LB 904, § 3.**

**79-1183 Repealed. Laws 1998, LB 904, § 3.**

**79-1183.01 Repealed. Laws 2000, LB 1135, § 34.**

**79-1184 Repealed. Laws 1998, Spec. Sess., LB 1, § 63.**



## SUBPART (ii)—DEPARTMENT DUTIES

79-1185 Transferred to section 79-1125.01.

79-1186 Repealed. Laws 1999, LB 813, § 62.

79-1187 Repealed. Laws 1998, Spec. Sess., LB 1, § 63.

79-1188 Repealed. Laws 2019, LB675, § 57.

## (d) BRIDGE PROGRAMS

79-1189 Repealed. Laws 2018, LB669, § 1.

79-1190 Repealed. Laws 2018, LB669, § 1.

79-1191 Repealed. Laws 2018, LB669, § 1.

79-1192 Repealed. Laws 2018, LB669, § 1.

79-1193 Repealed. Laws 2018, LB669, § 1.

79-1194 Repealed. Laws 2018, LB669, § 1.

79-1195 Repealed. Laws 2018, LB669, § 1.

79-1196 Repealed. Laws 2018, LB669, § 1.

79-1197 Repealed. Laws 1997, LB 347, § 59.

## (e) PROGRAMS FOR STUDENTS WITH HEARING IMPAIRMENTS

79-1198 Repealed. Laws 1999, LB 813, § 62.

79-1199 Repealed. Laws 1998, Spec. Sess., LB 1, § 62.

79-11,100 Repealed. Laws 1998, Spec. Sess., LB 1, § 62.

79-11,101 Repealed. Laws 1998, Spec. Sess., LB 1, § 62.

79-11,102 Repealed. Laws 1998, Spec. Sess., LB 1, § 62.

79-11,103 Repealed. Laws 1998, Spec. Sess., LB 1, § 62.

79-11,104 Repealed. Laws 1998, Spec. Sess., LB 1, § 62.

79-11,105 Repealed. Laws 1998, Spec. Sess., LB 1, § 62.

79-11,106 Repealed. Laws 1998, Spec. Sess., LB 1, § 62.

79-11,107 Repealed. Laws 1998, Spec. Sess., LB 1, § 62.

79-11,108 Repealed. Laws 1998, Spec. Sess., LB 1, § 62.

## (f) STUDENTS WHO ARE BLIND OR VISUALLY IMPAIRED

**79-11,109 Nebraska Center for the Education of Children who are Blind or Visually Impaired; State Department of Education; powers.**

The State Department of Education shall have oversight and general control of the Nebraska Center for the Education of Children who are Blind or Visually

Impaired, formerly the Nebraska School for the Visually Handicapped. The department may contract with a school district, an educational service unit, or a public institution of city, county, or state government to operate the center. The department may use, lease, or otherwise contract for the use of property and facilities formerly controlled by the Nebraska School for the Visually Handicapped for services of the center.

**Source:** Laws 1959, c. 419, § 1, p. 1409; Laws 1961, c. 412, § 3, p. 1238; R.S.1943, (1994), § 79-2001; Laws 1996, LB 900, § 891; Laws 1997, LB 346, § 53; Laws 1997, LB 347, § 44; Laws 1999, LB 813, § 53.

**79-11,110 Center; purpose.**

The purpose of the Nebraska Center for the Education of Children who are Blind or Visually Impaired is to provide special education services for persons not to exceed twenty-one years of age who are blind or visually impaired to such an extent that they cannot receive services in the public schools of this state. The center shall be the state resource center for all special education programs for children who are blind or visually impaired in Nebraska and shall provide services such as instructional materials and technology support, assessment and evaluation services, teacher training and professional development, summer and weekend programs, residential services, center-based programs, public school combination programs, local public school support, and consultation services to school districts and educational service units.

**Source:** Laws 1959, c. 419, § 2, p. 1409; Laws 1961, c. 412, § 4, p. 1238; Laws 1969, c. 740, § 1, p. 2793; R.S.1943, (1994), § 79-2002; Laws 1996, LB 900, § 892; Laws 1997, LB 346, § 54; Laws 1999, LB 813, § 54.

**79-11,111 Repealed. Laws 1999, LB 813, § 62.**

**79-11,112 Repealed. Laws 1999, LB 813, § 62.**

**79-11,113 Repealed. Laws 1999, LB 813, § 62.**

**79-11,114 Repealed. Laws 1999, LB 813, § 62.**

**79-11,115 Repealed. Laws 1999, LB 813, § 62.**

**79-11,116 Repealed. Laws 1999, LB 813, § 62.**

**79-11,117 Repealed. Laws 1999, LB 813, § 62.**

**79-11,118 Repealed. Laws 1999, LB 813, § 62.**

**79-11,119 Repealed. Laws 1999, LB 813, § 62.**

**79-11,120 Repealed. Laws 1999, LB 813, § 62.**

(g) VOCATIONAL REHABILITATION

**79-11,121 Division of Rehabilitation Services; established.**

The Division of Rehabilitation Services in the State Department of Education is established.

**Source:** Laws 1955, c. 324, § 1, p. 1001; R.S.1943, (1994), § 79-1446; Laws 1996, LB 900, § 903.

**79-11,122 Division; administration; director; appointment; duties.**

The Division of Rehabilitation Services shall be administered, under the general supervision and direction of the Commissioner of Education, by a director appointed by the commissioner, with the approval of the State Board of Education, in accordance with established personnel standards and on the basis of his or her education, training, experience, and demonstrated ability in the field of vocational rehabilitation. In carrying out duties under sections 79-11,121 to 79-11,132, the director shall:

(1) With the approval of the commissioner, prepare rules and regulations for adoption and promulgation by the State Board of Education governing (a) personnel standards, (b) protection of records and confidential information, (c) eligibility investigation and determination for vocational rehabilitation services, (d) procedures for fair hearings, and (e) such other matters as the director finds necessary to carry out the purposes of such sections;

(2) With the approval of the commissioner, establish and maintain appropriate subordinate administrative units within the division;

(3) Recommend to the commissioner for the appointment of such personnel as the director deems necessary for the efficient performance of the functions of the division;

(4) Prepare and submit to the State Board of Education annual reports of the activities and expenditures and, prior to each regular session of the Legislature, estimates of sums required for carrying out the provisions of such sections and estimates of the amounts to be made available for this purpose from all sources;

(5) Make certification for disbursement, in accordance with rules and regulations, of funds available for vocational rehabilitation;

(6) With the approval of the commissioner and the State Board of Education, take such other action as the director deems necessary or appropriate to carry out the purposes of such sections; and

(7) With the approval of the commissioner and the State Board of Education, when the director deems it advisable, delegate to any officer or employee of the division such powers and duties, except the making of regulations and the making of recommendations for the appointment of personnel, as the director finds necessary to carry out the purposes of such sections.

**Source:** Laws 1955, c. 324, § 2, p. 1001; R.S.1943, (1994), § 79-1447; Laws 1996, LB 900, § 904.

**79-11,123 Division; rehabilitation services; furnish; exceptions.**

Except as otherwise provided by law for the rehabilitation of the blind, the State Board of Education through the Division of Rehabilitation Services shall provide vocational rehabilitation services to disabled individuals determined by the director to be eligible for such services. In carrying out the purposes of sections 79-11,121 to 79-11,132, the division is authorized among other things:

(1) To cooperate with other departments, agencies, and institutions, both public and private, in providing for the vocational rehabilitation of disabled individuals, in studying the problems involved, and in establishing, developing, and providing, in conformity with the purposes of such sections, such programs, facilities, and services as may be necessary and desirable; and

(2) To conduct research and compile statistics relating to the vocational rehabilitation of disabled individuals.

**Source:** Laws 1955, c. 324, § 3, p. 1003; R.S.1943, (1994), § 79-1448; Laws 1996, LB 900, § 905.

**Cross References**

**Commission for the Blind and Visually Impaired Act**, see section 71-8601.

**79-11,124 Rehabilitation services; board; powers; duties.**

The State Board of Education, through the Division of Rehabilitation Services, shall (1) cooperate, pursuant to agreements with the federal government, in carrying out the purposes of any federal acts pertaining to vocational rehabilitation and may adopt such methods of administration as are found by the federal government to be necessary for the proper and efficient operation of such agreements or plans for vocational rehabilitation and to comply with such conditions as may be necessary to secure the full benefits of such federal acts and appropriations, (2) administer any legislation pursuant thereto enacted by the Legislature, (3) direct the disbursement of and administer the use of all funds provided by the federal government or this state for the vocational rehabilitation of disabled persons of this state, and (4) do all things necessary to insure the vocational rehabilitation of disabled persons.

**Source:** Laws 1955, c. 324, § 4, p. 1003; R.S.1943, (1994), § 79-1449; Laws 1996, LB 900, § 906.

**79-11,125 Rehabilitation services; federal funds; State Treasurer; duties.**

The State Treasurer is designated as the custodian of all funds received by the state from appropriations made by the Congress of the United States or from other sources for the purpose of carrying out any state or federal act pertaining to vocational rehabilitation. The State Treasurer is authorized to receive and provide for the proper custody of such funds and to establish such special funds and accounts as may be necessary and shall make disbursements from such funds and accounts for vocational rehabilitation purposes upon certification in the manner provided in subdivision (5) of section 79-11,122.

**Source:** Laws 1955, c. 324, § 5, p. 1003; R.S.1943, (1994), § 79-1450; Laws 1996, LB 900, § 907.

**79-11,126 Division; budget estimates; federal funds; authority to comply with requirements.**

Budget estimates of the amounts of appropriations needed each biennium for vocational rehabilitation services and for the administration of such program shall be submitted as provided by law, and sufficient funds for the purpose of carrying out the provisions of sections 79-11,121 to 79-11,132 shall be appropriated by the Legislature. In the event federal funds are available to the State of Nebraska for vocational rehabilitation purposes, the Division of Rehabilitation Services is authorized to comply with such requirements as may be necessary to obtain the maximum amount of federal funds and the most advantageous proportion possible insofar as this may be done without violating other provisions of the state laws and Constitution of Nebraska.

**Source:** Laws 1955, c. 324, § 6, p. 1004; Laws 1986, LB 258, § 21; R.S.1943, (1994), § 79-1451; Laws 1996, LB 900, § 908.

**79-11,127 Rehabilitation services; eligibility.**

Vocational rehabilitation services shall be provided to any disabled individual, other than the blind, who is a resident of the state at the time of filing application therefor and whose vocational rehabilitation, as the director determines after a full investigation, can be satisfactorily achieved. Vocational rehabilitation services means any services provided directly or through public or private instrumentalities found by the director to be necessary to enable such a disabled individual to overcome his or her employment handicap and to enable him or her to engage in an occupation, including, but not limited to: Medical and vocational diagnosis; vocational guidance, counseling, and placement; rehabilitation training; physical restoration; transportation; occupational licenses; placement equipment and materials; maintenance and training books and materials; the acquisition of vending stands or other equipment and initial stocks and supplies for use by severely handicapped individuals in any type of small business, the operation of which will be improved through the management and supervision by the Division of Rehabilitation Services; and the establishment of public and other nonprofit workshops for the severely disabled.

**Source:** Laws 1955, c. 324, § 7, p. 1004; R.S.1943, (1994), § 79-1452; Laws 1996, LB 900, § 909.

**Cross References**

Commission for the Blind and Visually Impaired Act, see section 71-8601.

**79-11,128 Rehabilitation services; aggrieved person; State Board of Education; fair hearing.**

Any individual applying for or receiving vocational rehabilitation who is aggrieved by any action or inaction of the Division of Rehabilitation Services shall be entitled to a fair hearing in accordance with regulations adopted and promulgated by the State Board of Education.

**Source:** Laws 1955, c. 324, § 8, p. 1005; R.S.1943, (1994), § 79-1453; Laws 1996, LB 900, § 910.

**79-11,129 Rehabilitation services; unlawful acts.**

It shall be unlawful, except for purposes directly connected with the administration of the vocational rehabilitation program and in accordance with regulations, for any person or persons to solicit, disclose, receive, or make use of or authorize, knowingly permit, participate in, or acquiesce in the use of any list of, names of, or any information concerning persons applying for or receiving vocational rehabilitation, directly or indirectly derived from the records, papers, files, or communications of the state or subdivisions or agencies thereof or acquired in the course of the performance of official duties, except in response to summons, subpoena, or other order of a court.

**Source:** Laws 1955, c. 324, § 9, p. 1005; R.S.1943, (1994), § 79-1454; Laws 1996, LB 900, § 911.

**79-11,130 State Board of Education; Secretary of the United States Department of Health and Human Services; agreement; purpose.**

The State Board of Education is empowered to enter into an agreement on behalf of the State of Nebraska with the Secretary of the United States

Department of Health and Human Services to carry out the provisions of the federal Social Security Act, as amended, relating to the making of determinations of disability under the provisions of such act.

**Source:** Laws 1955, c. 324, § 11, p. 1006; Laws 1973, LB 586, § 1; Laws 1991, LB 2, § 22; R.S.1943, (1994), § 79-1455; Laws 1996, LB 900, § 912.

**79-11,131 State Treasurer; custodian of funds; disbursement.**

The State Treasurer shall act as custodian of the money paid by the federal government to the state to carry out the agreement referred to in section 79-11,130 and shall disburse such money in accordance with the direction of the State Board of Education.

**Source:** Laws 1955, c. 324, § 12, p. 1006; R.S.1943, (1994), § 79-1456; Laws 1996, LB 900, § 913.

**79-11,132 Interagency agreement with Department of Health and Human Services; matching of funds required.**

The State Department of Education shall enter into an interagency agreement with the Department of Health and Human Services to provide vocational rehabilitation services and supported employment programs to persons with developmental disabilities. The Division of Rehabilitation Services of the State Department of Education shall match all state and local funds provided by the Department of Health and Human Services and developmental disabilities regions to the extent that federal vocational rehabilitation funds are available.

**Source:** Laws 1991, LB 830, § 33; R.S.1943, (1994), § 79-1457; Laws 1996, LB 900, § 914; Laws 1996, LB 1044, § 820.

(h) ADULT EDUCATION

**79-11,133 Adult Education Program; establishment; purpose.**

The Adult Education Program is established in the State Department of Education. The program shall assist in the development and strengthening of community education programs in school districts of the state and provide for the education of any person who is sixteen years of age or older, who is not enrolled in high school and is not required to be enrolled in school, who lacks sufficient mastery of basic educational skills to enable him or her to function effectively in society or does not have a certificate of graduation from a high school or equivalent educational experience, and whose lack of mastery of basic skills results in an inability to speak, read, write, or understand the English language constituting a substantial impairment of his or her ability and evidences a need for programs to help eliminate such inability and raise his or her level of education making it less likely that he or she will become dependent on others. The program shall be under the direction of a state supervisor appointed by the department.

**Source:** Laws 1927, c. 82, § 1, p. 248; C.S.1929, § 79-2301; R.S.1943, § 79-2301; Laws 1949, c. 256, § 404, p. 827; Laws 1990, LB 1090, § 28; R.S.1943, (1994), § 79-1415; Laws 1996, LB 900, § 915.

**79-11,134 Adult education; classes; authorized.**

School boards and boards of education may expend money for conducting schools and classes in school buildings, industrial establishments, places of employment, and such other places as may be expedient for the purpose of giving instruction to persons described in section 79-11,133. Such courses of instruction or study may include basic educational skills, English, history, civics, and other subjects tending to promote good citizenship and to increase vocational efficiency.

**Source:** Laws 1927, c. 82, § 2, p. 248; C.S.1929, § 79-2302; R.S.1943, § 79-2302; Laws 1949, c. 256, § 405, p. 827; Laws 1990, LB 1090, § 29; R.S.1943, (1994), § 79-1416; Laws 1996, LB 900, § 916.

**79-11,135 Adult Education Program; expenses; how paid.**

The Commissioner of Education may disburse, from funds appropriated for the State Department of Education, sufficient money for supervision, instruction, and other necessary expenses in conducting the Adult Education Program.

**Source:** Laws 1927, c. 82, § 4, p. 249; C.S.1929, § 79-2304; R.S.1943, § 79-2304; Laws 1949, c. 256, § 407, p. 828; Laws 1990, LB 1090, § 30; R.S.1943, (1994), § 79-1418; Laws 1996, LB 900, § 917.

(i) SEAMLESS DELIVERY SYSTEM PILOT PROJECT

**79-11,136 Repealed. Laws 2009, LB 549, § 53.**

**79-11,137 Repealed. Laws 2009, LB 549, § 53.**

**79-11,138 Repealed. Laws 2009, LB 549, § 53.**

**79-11,139 Repealed. Laws 2009, LB 549, § 53.**

**79-11,140 Repealed. Laws 2009, LB 549, § 53.**

**79-11,141 Repealed. Laws 2009, LB 549, § 53.**

(j) COMMUNITY-BASED NEUROBEHAVIORAL ACTION PLAN ACT

**79-11,142 Repealed. Laws 2003, LB 667, § 26.**

**79-11,143 Repealed. Laws 2003, LB 667, § 26.**

**79-11,144 Repealed. Laws 2003, LB 667, § 26.**

**79-11,145 Repealed. Laws 2003, LB 667, § 26.**

**79-11,146 Repealed. Laws 2003, LB 667, § 26.**

**79-11,147 Repealed. Laws 2003, LB 667, § 26.**

**79-11,148 Repealed. Laws 2003, LB 667, § 26.**

**79-11,149 Repealed. Laws 2003, LB 667, § 26.**

## (k) HIGH-NEEDS EDUCATION COORDINATOR

**79-11,150 Repealed. Laws 2011, LB 333, § 18.**

## (l) SPECIAL EDUCATION SERVICES TASK FORCE

**79-11,151 Repealed. Laws 2009, LB 154, § 27.**

**79-11,152 Repealed. Laws 2009, LB 154, § 27.**

**79-11,153 Repealed. Laws 2009, LB 154, § 27.**

**79-11,154 Repealed. Laws 2009, LB 154, § 27.**

## (m) STUDENT ACHIEVEMENT COORDINATOR

**79-11,155 Student achievement coordinator; appointment; qualifications; duties.**

The Commissioner of Education shall appoint a student achievement coordinator, subject to confirmation by a majority vote of the members of the State Board of Education. The coordinator shall have a background and training in addressing the unique educational needs of low-achieving students, including students in poverty, limited English proficient students, and highly mobile students.

The coordinator shall evaluate and coordinate existing resources for effective programs to increase achievement for such students across the state.

The coordinator or other department staff designated by the Commissioner of Education shall also consult with learning communities, educational service units, and school districts on the development, implementation, and evaluation of community achievement plans. In addition, the coordinator or other department staff designated by the commissioner shall conduct an initial review of submitted community achievement plans and return the plans with any suggestions or comments prior to the final submission of the plan for approval by the State Board of Education.

**Source:** Laws 2014, LB967, § 21; Laws 2016, LB1067, § 57; Laws 2018, LB1081, § 16.

## (n) DYSLEXIA

**79-11,156 Student; receive evidence-based structured literacy instruction.**

(1) Beginning with the 2018-19 school year, unless otherwise provided in an individualized education plan for a student receiving special education services, each student who is identified as exhibiting characteristics of dyslexia shall receive evidence-based structured literacy instruction implemented with fidelity using a multisensory approach as provided in the technical assistance document for dyslexia adopted and promulgated by the State Department of Education pursuant to section 79-11,157.

(2) A school district shall not require a student who exhibits characteristics of dyslexia to obtain a medical diagnosis to receive intervention pursuant to this section.

**Source:** Laws 2018, LB1052, § 1.



**79-11,157 State Department of Education; duties.**

The State Department of Education shall develop and distribute a technical assistance document for dyslexia. The technical assistance document shall provide information about the characteristics of dyslexia, associated conditions of dyslexia, indicators of dyslexia, and the screening, progress monitoring, evaluation, instruction, and intervention for dyslexia. The technical assistance document shall also provide guidance for evidence-based structured literacy instruction to be implemented with fidelity using a multisensory approach for students who are identified as exhibiting characteristics of dyslexia. Such document shall be distributed to all teacher education programs, educational service units, and school districts to create statewide awareness among educators. The document shall also be referenced in the rules and regulations of the department regarding approval of teacher education programs, special education, and accreditation of schools.

**Source:** Laws 2018, LB1052, § 2.

**79-11,157.01 School district; provide information relating to dyslexia; State Department of Education; duties.**

(1) On or before July 1 of each year, each school district shall provide to the State Department of Education, on forms prescribed by the department, information relating to dyslexia. Such information shall include, but not be limited to, the number of students in each public school in such district:

(a) Tested for a specific learning disability in the area of reading, including tests that identify characteristics of dyslexia and the results of such tests;

(b) Identified as having a reading issue, including dyslexia, pursuant to the assessment administered under the Nebraska Reading Improvement Act; and

(c) Identified as described in subdivision (b) of this subsection that have shown growth on the measure used to identify the reading issue.

(2) The State Department of Education shall annually compile the information received pursuant to subsection (1) of this section and provide a report on such information electronically to the Legislature on or before September 1 of each year.

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

**Source:** Laws 2023, LB298, § 1.

**Cross References**

Nebraska Reading Improvement Act, see section 79-2601.

**79-11,158 Teacher education program; include instruction in dyslexia.**

On and after July 1, 2019, each teacher education program approved by the State Board of Education shall include as a part of their initial program course requirements instruction in dyslexia, including, but not limited to:

(1) Knowledge and best practice standards for teaching reading;

(2) Characteristics of dyslexia and the science of dyslexia; and

(3) Evidence-based structured literacy interventions, classroom accommodations, and assistive technology for individuals with dyslexia.

**Source:** Laws 2018, LB1052, § 3.

**79-11,158.01 Dyslexia Research Grant Program; created; eligible applicant; grant; use; violation; civil action.**

(1) For purposes of this section:

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

(b) Eligible applicant means a privately owned business based in Nebraska that is in the process of researching artificial-intelligence-based writing assistance that can be used to assist individuals with dyslexia.

(2) The Dyslexia Research Grant Program is created and shall be administered by the department.

(3)(a) An eligible applicant may apply to the department for a grant under the Dyslexia Research Grant Program. The department shall prescribe the application form that is to be completed when applying for a grant under the Dyslexia Research Grant Program. The grant shall be conditioned on compliance with this section.

(b) Except as provided in subdivision (c) of this subsection, the department may award a grant to any eligible applicant.

(c) The total amount of all grants awarded under the Dyslexia Research Grant Program shall not be more than five hundred thousand dollars. It is the intent of the Legislature that grants awarded pursuant to this section shall be funded from the Education Future Fund.

(4) All grant money received under the Dyslexia Research Grant Program shall be used only for the purpose of researching the use of artificial-intelligence-based writing assistance by individuals with dyslexia. Such research shall be focused on using aggregate writing analytics to identify writing errors and patterns that can be used by teachers to develop a comprehensive literacy plan for students with dyslexia.

(5)(a) If any grant money received under the Dyslexia Research Grant Program is used in violation of subsection (4) of this section, the department shall notify the Attorney General of such violation.

(b) The Attorney General shall bring a civil action in any court of competent jurisdiction to recoup any money spent in violation of subsection (4) of this section. Any money collected in such civil action shall be remitted to the State Treasurer for credit to the Education Future Fund.

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

**Source:** Laws 2024, LB1284, § 2.

Operative date July 19, 2024.

## (o) BEHAVIORAL HEALTH

**79-11,159 Behavioral health points of contact; designation; qualifications; behavioral health training and resources; access; coordination; report.**

(1) On or before August 1, 2023, each school district shall designate one or more behavioral health points of contact for each school building or other division as determined by the school district. A behavioral health point of contact may be an administrator, a school nurse, a school psychologist, or another designated person affiliated with such school building or other division. Each behavioral health point of contact shall have knowledge of community

behavioral health service providers and other resources available for students and families.

(2) On or before August 1, 2023, and on or before each August 1 thereafter, the State Department of Education, in consultation with the Division of Behavioral Health of the Department of Health and Human Services, shall provide each school district with a registry of state and local behavioral health resources available to work with students and families by geographic area. The registry shall be updated at least annually and include resources for both school-based services and services accessible by students' families outside of school.

(3) Each behavioral health point of contact shall coordinate access to community behavioral health services for students and families and facilitate access to services during the school day at the school the student attends. Except as provided in section 43-2101, such facilitation shall be approved by the student's parent or guardian. In addition, the behavioral health point of contact shall also be responsible for the duties set forth in section 79-3603.

(4) Before the beginning of school year 2023-24, and before the beginning of each school year thereafter, each school district shall report the designated behavioral health points of contact to the State Department of Education.

**Source:** Laws 2022, LB852, § 1; Laws 2024, LB1329, § 86.  
Effective date July 19, 2024.

**79-11,160 Repealed. Laws 2024, LB1329, § 102.**

## ARTICLE 12

### EDUCATIONAL SERVICE UNITS ACT

#### Cross References

**Budgets**, applicability of Nebraska Budget Act, see section 13-517.

#### Section

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**§ 79-1201****SCHOOLS**

## Section

- 79-1221. Treasurer; custodian of funds; duties; bond or insurance; conditions.
- 79-1222. Educational service unit; services; to whom provided; contracting for health services.
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- 79-1241.01. Core services; appropriation; legislative intent.
- 79-1241.02. Repealed. Laws 2010, LB 1071, § 48.
- 79-1241.03. Distribution of funds; certification by department to educational service unit and learning community; distribution.
- 79-1242. Property tax funds; use.
- 79-1243. Repealed. Laws 2010, LB 1071, § 48.
- 79-1244. Power to borrow money; conditions; authorization to accept loans from state or federal government.
- 79-1245. Educational Service Unit Coordinating Council; created; composition; funding; powers.
- 79-1246. Educational Service Unit Coordinating Council; duties; Open Meetings Act applicable.
- 79-1247. Educational Service Unit Coordinating Council; appoint distance education director; council director authorized; salaries; expenses; duties; contract authorized; other appointments authorized.
- 79-1248. Educational Service Unit Coordinating Council; powers and duties.
- 79-1249. Educational Service Unit Coordinating Council; assistance provided.

**79-1201 Act, how cited.**

Sections 79-1201 to 79-1249 shall be known and may be cited as the Educational Service Units Act.

**Source:** Laws 1996, LB 900, § 918; Laws 1998, LB 1110, § 1; Laws 1999, LB 386, § 2; Laws 2002, Second Spec. Sess., LB 5, § 2; Laws 2007, LB603, § 8.

**79-1201.01 Terms, defined.**

For purposes of the Educational Service Units Act and section 79-1337:

(1) Distance education course means a course with at least one student in any of grades kindergarten through twelve who is in a different location than the teacher and taught by a teacher employed by an educational entity utilizing

either two-way interactive video or the Internet without two-way interactive video. Distance education course includes a dual-enrollment course with at least one student who is in a different location than the teacher and taught by a teacher employed by an educational entity utilizing either two-way interactive video or the Internet without two-way interactive video;

(2) Dual-enrollment course means a course taught to students for credit at both a high school and a postsecondary educational institution;

(3) Educational entity means a school district, a private, denominational, or parochial school, an educational service unit, a community college, a state college, the University of Nebraska, or a nonprofit private postsecondary educational institution;

(4) Elementary distance education course means a distance education course which is delivered utilizing two-way interactive video to students who are enrolled in any of grades kindergarten through eight;

(5) Network Nebraska means the network created pursuant to section 86-5,100;

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

(7) Technical training means training to equip educators with knowledge about the skills and tools necessary to infuse technological resources and software applications into the curriculum to be used in classrooms with and by students and includes, but is not limited to, computer workstation troubleshooting, distance education, educational software, Internet resources, local area network management, multimedia presentation tools, and strategic planning;

(8) Technology includes technical training and technology infrastructure;

(9) Technology infrastructure means hardware-related items necessary for schools to interact electronically throughout the state, including, but not limited to, physical connections, wiring, servers, routers, switches, domain name service, and operating systems and human resources necessary to maintain infrastructure, including, but not limited to, systems engineers, programmers, webmasters, and help desk staff; and

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

**Source:** Laws 1999, LB 386, § 3; Laws 2007, LB603, § 9; Laws 2021, LB528, § 42.

**79-1202 Educational service units; name.**

The official name of each educational service unit shall be Educational Service Unit No. \_\_\_ of the State of Nebraska, and the individual number of each unit shall be determined by the State Board of Education. For educational service units existing on January 1, 1998, the number of the unit shall remain the same. For educational service units created by merger, the number of the unit shall be the number of one of the educational service units dissolving into the new educational service unit. For all other newly created educational

service units, the number shall be any number not otherwise assigned to an existing educational service unit.

**Source:** Laws 1965, c. 504, § 1, p. 1606; Laws 1969, c. 746, § 1, p. 2807; Laws 1984, LB 994, § 19; Laws 1987, LB 688, § 12; R.S.1943, (1994), § 79-2201; Laws 1996, LB 900, § 919; Laws 1997, LB 806, § 55; Laws 1998, Spec. Sess., LB 1, § 50; Laws 2001, LB 797, § 48; Laws 2008, LB1154, § 12.

This article sustained as constitutional. *Frye v. Haas*, 182 Neb. 73, 152 N.W.2d 121 (1967).

**79-1203 Repealed. Laws 1998, Spec. Sess., LB 1, § 61.**

**79-1204 Role and mission; powers and duties.**

(1) The role and mission of the educational service units is to serve as educational service providers in the state's system of elementary and secondary education.

(2) Educational service units shall:

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

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

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

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

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

(3) Core services shall be provided by educational service units to all member school districts. Core services shall be defined by each educational service unit as follows:

(a) Core services shall be within the following service areas in order of priority: (i) Staff development which shall include access to staff development related to improving the achievement of students in poverty and students with diverse backgrounds; (ii) technology, including distance education services; and (iii) instructional materials services;

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

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

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

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

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

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

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

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

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

(a) Provide for accountability to taxpayers;

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

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

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

(a) Nonmember public school districts;

(b) Nonpublic school systems;

(c) Other educational service units; and

(d) Other public agencies, under the Interlocal Cooperation Act and the Joint Public Agency Act.

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

(7) The board of any educational service unit in this state may pay from its funds an amount to be determined by the board for membership dues in associations of school boards or boards of education.

**Source:** Laws 1987, LB 688, § 1; R.S.1943, (1994), § 79-2201.02; Laws 1996, LB 900, § 921; Laws 1997, LB 806, § 57; Laws 1999, LB 87, § 89; Laws 2006, LB 1208, § 8; Laws 2007, LB641, § 34; Laws 2009, LB549, § 45; Laws 2013, LB410, § 13; Laws 2016, LB1002, § 1.

#### Cross References

**Interlocal Cooperation Act**, see section 13-801.

**Joint Public Agency Act**, see section 13-2501.

#### **79-1205 Annual adjustment to boundaries; State Board of Education; duties.**

On or before August 1 of each year, the State Board of Education shall adjust the boundaries of any educational service unit the boundaries of which do not align with the boundaries of the member school districts on August 1 of such year. Such boundary adjustments shall align the boundaries of the educational service unit with the boundaries of the member school districts as the boundaries of the member school districts existed on August 1 of such year. Such

boundary adjustments shall be referred to the appropriate county and educational service unit officials, and such officials shall implement the adjustments and make the necessary changes in the educational service unit maps and tax records.

**Source:** Laws 2007, LB603, § 10; Laws 2015, LB525, § 25.

**79-1206 Reorganization of educational service unit boundaries; legislative intent.**

The Legislature finds that from time to time there is a need to change the boundaries of educational service units in response to changes in student population and in student and school needs as well as changes in the taxable wealth and financial resources of the educational service units. It is the intent of the Legislature to establish an orderly process for locally initiated reorganization of educational service unit boundaries. The purpose of sections 79-1206 to 79-1211 is to establish the statutory framework for such process and to empower the State Board of Education to make changes in educational service unit boundaries based on statutory criteria.

**Source:** Laws 1987, LB 688, § 2; R.S.1943, (1994), § 79-2202.03; Laws 1996, LB 900, § 923.

**79-1207 Boundary change; initiated by petition.**

On and after January 1, 1989, petitions to the State Board of Education to change educational service unit boundaries may be initiated by a resolution adopted by a majority vote of any educational service unit board or any school board. In addition, such boards shall initiate a petition for reorganization upon the receipt of a petition signed by ten percent of the legal voters of such educational service unit or school district and certified by the county clerk or election commissioner.

**Source:** Laws 1987, LB 688, § 3; R.S.1943, (1994), § 79-2202.04; Laws 1996, LB 900, § 924; Laws 1997, LB 345, § 46.

**79-1208 Boundary change; petition; contents.**

Petitions to the State Board of Education to change educational service unit boundaries shall include a description of the proposed boundaries and shall be accompanied by a plan of reorganization which shall include (1) a summary of the reasons for the proposed reorganization, (2) a plan for the provision of services to school districts affected by any reorganization plan, (3) when a petition proposes the dissolution of an entire educational service unit or units for attachment to an existing educational service unit or for the merger of two or more educational service units into a new educational service unit, a summary of the terms on which such reorganization is made, including provision for the utilization of existing facilities, equipment, and materials and provision for the disposition of assets and any unbonded indebtedness of affected educational service units, (4) when a petition deals with the attachment of new territory to an existing educational service unit, verification of approval by majority vote of the receiving educational service unit governing board, and (5) a plan for the establishment of new election districts as required under section 79-1217.

**Source:** Laws 1987, LB 688, § 4; Laws 1990, LB 486, § 2; R.S.1943, (1994), § 79-2202.05; Laws 1996, LB 900, § 925; Laws 2007, LB603, § 11.



**79-1209 Boundaries; petition; changes authorized.**

A petition to reorganize educational service units may include the following:

- (1) A transfer of a school district or districts from one established educational service unit to another established educational service unit;
- (2) A withdrawal from an established educational service unit by two or more school districts to form a new educational service unit;
- (3) An addition of a school district or districts which are not part of an educational service unit to an established or new educational service unit; and
- (4) The dissolution of one or more entire educational service units for attachment to existing educational service units or the merger of two or more educational service units into a new educational service unit.

**Source:** Laws 1987, LB 688, § 5; R.S.1943, (1994), § 79-2202.06; Laws 1996, LB 900, § 926; Laws 1997, LB 806, § 58.

**79-1210 State Board of Education; grant or deny petition; criteria.**

The State Board of Education shall grant or deny any petition to change educational service unit boundaries based upon the following criteria:

- (1) The educational needs of students in the affected school districts and the affected educational service units;
- (2) The economic viability of the proposal as it relates to affected established educational service units or affected proposed educational service units;
- (3) Any community of interest among affected school districts and affected educational service units;
- (4) Geographic proximity as such would affect the ability of affected educational service units to deliver service in a cost-effective manner;
- (5) Compliance with the requirements of the Educational Service Units Act; and
- (6) In the dissolution of one or more entire educational service units, evidence of consent from each educational service unit board and two-thirds of the school boards or boards of education of member school districts representing a majority of students in each affected educational service unit.

For petitions that change educational service unit boundaries by transferring a learning community member district from one educational service unit to another educational service unit with existing territory in such learning community, the requirements of subdivisions (1), (2), (3), and (4) of this section shall be deemed to have been met if the affected educational service units will each have at least two member school districts after such transfer.

**Source:** Laws 1987, LB 688, § 6; R.S.1943, (1994), § 79-2202.07; Laws 1996, LB 900, § 927; Laws 1997, LB 806, § 59; Laws 2008, LB1154, § 13.

**79-1211 Petition; hearing; approval or rejection; effect.**

The State Board of Education, within ninety days after the receipt of any petition described in section 79-1208, shall hold a public hearing on the proposed reorganization plan. At the board's option, it may appoint a hearing officer to conduct the public hearing and issue a summary of the evidence presented. The board may also direct the appointed hearing officer to recom-

mend a decision to the board, which recommendation shall not be binding on the board. Within one hundred twenty days after the receipt of such petition, the board shall approve or reject such petition. If the board rejects the petition, it shall clearly state its reasons for such rejection. Approved petitions for reorganization of educational service unit boundaries shall be referred to the appropriate county and educational service unit officials to implement the plan and to make the necessary changes in the educational service unit maps and tax records.

**Source:** Laws 1987, LB 688, § 7; Laws 1990, LB 486, § 3; R.S.1943, (1994), § 79-2202.08; Laws 1996, LB 900, § 928; Laws 2007, LB603, § 12.

#### **79-1212 Reorganized units; board members.**

Members of boards of educational service units existing prior to approval of any plan of reorganization shall serve as board members of educational service units which are reorganized pursuant to sections 79-1206 to 79-1211 until the expiration of their original terms. Such persons shall be members of the board of the reorganized educational service unit in which they reside. Within thirty days after approval of any plan of reorganization by the State Board of Education, the president of the board of each educational service unit being reorganized shall call a meeting of board members of such educational service unit. At such meeting, members of each such board shall appoint one member from each election district to be created pursuant to the plan of reorganization not having representation on such board to serve until the next general election. The board shall take all necessary action to prepare for operation of the reorganized educational service unit following approval of any plan of reorganization by the State Board of Education. Expenses incurred by such board prior to such times shall be prorated between the counties comprising the educational service unit on the basis of the assessed valuation of such counties.

**Source:** Laws 1969, c. 746, § 3, p. 2810; Laws 1987, LB 688, § 18; R.S.1943, (1994), § 79-2203.02; Laws 1996, LB 900, § 929; Laws 1998, Spec. Sess., LB 1, § 51; Laws 2007, LB603, § 13; Laws 2009, LB549, § 46.

#### **79-1213 Reorganized units; warrants; purpose; interest.**

The board of any reorganized educational service unit pursuant to sections 79-1206 to 79-1211 is authorized to issue warrants in an amount necessary for the following purposes: (1) To pay its expenses for a one-year period beginning one year after approval of any plan of reorganization by the State Board of Education; and (2) to finance the programs and services of the reorganized educational service unit beginning one year after the approval of any plan of reorganization by the State Board of Education until the distribution of the proceeds of its first tax levy less the amount of cash on hand and to be received during such period. Whenever any board of a reorganized educational service unit issues warrants, such board shall make a tax levy at the next tax-levying period sufficient to pay the same and the interest thereon. Such warrants shall bear interest at the rate of not more than six percent per annum and shall be

recorded by the treasurer of the board and redeemed as provided in Chapter 77, article 22, and amendments thereto.

**Source:** Laws 1969, c. 746, § 4, p. 2811; Laws 1987, LB 688, § 19; R.S.1943, (1994), § 79-2203.03; Laws 1996, LB 900, § 930; Laws 1998, Spec. Sess., LB 1, § 52.

**79-1214 Repealed. Laws 1998, Spec. Sess., LB 1, § 61.**

**79-1215 Reorganized unit; adjusted tax list; contracts or leases; limitation; certificated employee; rights; transfer of records.**

(1) Within one year after the date of approval of any plan of reorganization, the county treasurer of each county shall adjust the tax list of the educational service unit in accordance with the changes in boundaries of the educational service units pursuant to sections 79-1206 to 79-1211 so that the uncollected taxes levied upon property that has been transferred to another educational service unit shall when collected be placed to the credit of the reorganized educational service unit to which the property is a part.

(2) The board of every existing educational service unit that is to become reorganized pursuant to sections 79-1206 to 79-1211 shall not employ any person for a term greater than one year. Any contract or lease made by such a governing body is hereby declared to be null and void if it extends for a period greater than one year unless validated by the board of the reorganized educational service unit. This subsection is not inconsistent with and does not negate any rights of any educational service unit certificated employees to continued employment pursuant to sections 79-846 to 79-849 and 79-1234 to 79-1239. The provisions of this subsection do not negate any previously negotiated collective-bargaining agreements between educational service unit certificated employees and the educational service unit covering a period of time greater than one year.

(3) Any certificated employee who, in the year immediately preceding a reorganization, has been employed one-half time or more by an educational service unit which is affected by an approved petition to change educational service unit boundaries shall, upon the effective date of the reorganization of the educational service unit boundaries pursuant to sections 79-1206 to 79-1211, have the option, for purposes of reduction in force, to be considered an employee of either the educational service unit at which he or she has been employed or of the educational service unit which will provide services to the affected school district. If such employee elects to be considered an employee of the educational service unit which will serve the affected school district, the employee shall not lose any right of seniority or tenure status after the transfer. If the certificated employee in the year immediately preceding reorganization is assigned less than one-half time to a school district petitioning or a school district in an educational service unit petitioning for reorganization, then such certificated employee shall continue to be an employee of the educational service unit existing prior to reorganization.

(4) All official records of existing educational service units which are reorganized in whole or in part pursuant to sections 79-1206 to 79-1211 shall be transferred to the office of the Commissioner of Education for storage.

**Source:** Laws 1969, c. 746, § 6, p. 2812; Laws 1987, LB 688, § 21; R.S.1943, (1994), § 79-2204.01; Laws 1996, LB 900, § 932; Laws 1998, Spec. Sess., LB 1, § 53.

**79-1216 Repealed. Laws 1997, LB 806, § 69.****79-1217 Governing board; name; members; election; qualification; vacancy; expenses.**

(1) All educational service units shall be governed by a board to be known as the Board of Educational Service Unit No. \_\_\_\_\_. Until the first Thursday after the first Tuesday in January 2009, the educational service unit board, except the board of an educational service unit with only one member school district, shall be composed of one member from each county and four members at large, all of whom shall reside within the geographical boundaries of the educational service unit, but no more than two of the members at large shall be appointed or elected from the same county unless any one county within the educational service unit has a population in excess of one hundred fifty thousand inhabitants or the educational service unit consists of only one county. Beginning on the first Thursday after the first Tuesday in January 2009, the educational service unit board, except the board of an educational service unit with only one member school district, shall be composed of one member elected to represent each election district established pursuant to section 79-1217.01. Successors to the members initially appointed pursuant to section 79-1212 shall be elected pursuant to section 32-515.

(2) Vacancies in office shall occur as set forth in section 32-560, except as otherwise provided in section 79-1212 regarding the requirement to live in the district represented, or in the case of absences, unless excused by a majority of the remaining members of the board, when a member is absent from the geographical boundaries of the educational service unit for a continuous period of sixty days at one time or from more than two consecutive regular meetings of the board. Whenever any vacancy occurs on the board, the remaining members of such board shall appoint an individual residing within the election district of the educational service unit for which the vacancy exists and meeting the qualifications for the office to fill such vacancy for the balance of the unexpired term. The board shall file written notice of such appointment with the Secretary of State.

(3) Members of the board shall receive no compensation for their services but shall be reimbursed for the expenses incurred in the performance of their duties under the Educational Service Units Act as provided in sections 81-1174 to 81-1177.

(4) Any joint school district located in two or more counties shall be considered a part of the educational service unit in which the greater number of school-age children of such joint school district reside.

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

(6) An educational service unit may consist of a single school district if the single school district is either a Class IV or Class V school district. An educational service unit with only one member school district shall be governed

by the school board of such school district and shall participate in one or more of the statewide projects managed by the Educational Service Unit Coordinating Council.

**Source:** Laws 1965, c. 504, § 3, p. 1608; Laws 1967, c. 560, § 1, p. 1844; Laws 1969, c. 747, § 2, p. 2818; Laws 1969, c. 746, § 8, p. 2814; Laws 1977, LB 201, § 17; Laws 1978, LB 632, § 10; Laws 1981, LB 204, § 163; Laws 1987, LB 688, § 16; Laws 1988, LB 1142, § 12; Laws 1991, LB 511, § 65; Laws 1992, LB 245, § 70; Laws 1992, LB 1063, § 200; Laws 1992, Second Spec. Sess., LB 1, § 171; Laws 1994, LB 76, § 607; R.S.1943, (1994), § 79-2203; Laws 1996, LB 900, § 934; Laws 1997, LB 345, § 47; Laws 1997, LB 347, § 47; Laws 2001, LB 797, § 49; Laws 2002, LB 647, § 2; Laws 2007, LB603, § 14; Laws 2010, LB965, § 2; Laws 2012, LB446, § 1; Laws 2018, LB377, § 83; Laws 2020, LB381, § 95; Laws 2021, LB285, § 19.

**79-1217.01 Educational service unit board; establish election districts.**

By December 31, 2007, and after each decennial census pursuant to section 32-553, each educational service unit board, except boards of educational service units with only one member school district, shall divide the territory of the educational service unit into at least five and up to twelve numbered districts for the purpose of electing members to the board in compliance with section 32-553. Such districts shall be compact and contiguous and substantially equal in population. The newly established election districts shall apply beginning with the nomination and election of educational service unit board members in 2008.

**Source:** Laws 2007, LB603, § 15.

**79-1218 Board; meetings; organization; duties.**

The board of each educational service unit shall meet and organize by naming one of its members as president, one as vice president, and one as secretary. The board shall employ a treasurer who shall be paid a salary to be fixed by the board.

The board of the educational service unit shall determine the participation of the educational service unit in providing supplementary educational services. If the board of the educational service unit does not provide supplementary educational services, it shall meet during each succeeding January to determine the participation in providing supplementary educational services for that calendar year. Meetings may be held by means of virtual conferencing in accordance with section 84-1411.

**Source:** Laws 1965, c. 504, § 4, p. 1610; Laws 1969, c. 748, § 1, p. 2822; Laws 1969, c. 746, § 5, p. 2811; Laws 1987, LB 688, § 20; R.S.1943, (1994), § 79-2204; Laws 1996, LB 900, § 935; Laws 2009, LB361, § 1; Laws 2021, LB83, § 8; Laws 2024, LB287, § 72.

Operative date April 17, 2024.

**79-1219 Board; administrator; appointment; compensation; duties.**

Each board of an educational service unit deciding to provide supplementary services shall appoint and fix the compensation and duties of an administrator,

who shall be a person experienced in public school administration and who shall hold at least a standard administrative certificate. With the advice of the administrator, the board shall also employ and fix the compensation and duties of such professional and clerical assistants as shall be necessary. No board member of an educational service unit shall be employed by the educational service unit board on which he or she is a board member.

**Source:** Laws 1965, c. 504, § 5, p. 1610; Laws 1987, LB 688, § 22; R.S.1943, (1994), § 79-2205; Laws 1996, LB 900, § 936.

**79-1220 Board; offices; location.**

(1) The board shall determine the location within the educational service unit of its principal office and may, if necessary for the performance of its duties under the Educational Service Units Act, establish one or more other offices at such locations as it shall determine within the educational service unit. The board may acquire office space by purchase out of funds appropriated to it for educational purposes or may rent or lease such space as may be necessary. The board shall also acquire the personal property necessary for the performance of its duties.

(2) When due to boundary changes provided for in sections 79-1206 to 79-1211 the principal office of an educational service unit is no longer located within the boundaries of the educational service unit, then the affected educational service unit may maintain its principal office outside the boundaries of the unit.

**Source:** Laws 1965, c. 504, § 6, p. 1611; Laws 1987, LB 688, § 23; R.S.1943, (1994), § 79-2206; Laws 1996, LB 900, § 937.

**79-1221 Treasurer; custodian of funds; duties; bond or insurance; conditions.**

The treasurer shall be the custodian of all funds of the board of the educational service unit. He or she shall attend meetings of the board, shall prepare and submit in writing a monthly report of the state of its finances, and shall pay out money of the board only upon a warrant signed by the president, or in his or her absence by the vice president, and countersigned by the secretary. The treasurer shall give bond or evidence of equivalent insurance coverage, payable to the board, in such sum as the board shall determine conditioned for the faithful performance of the duties as treasurer of the board and for the safekeeping and proper disbursement of all funds of the board collected or received by him or her. Such bond shall be signed by a corporate surety company or insurance company authorized to do business within this state. Such bond or insurance coverage may be enlarged at any time the board deems such enlargement necessary or advisable. The cost of such bond or insurance coverage shall be paid out of funds of the board.

**Source:** Laws 1965, c. 504, § 7, p. 1611; Laws 1969, c. 748, § 2, p. 2822; R.S.1943, (1994), § 79-2207; Laws 1996, LB 900, § 938; Laws 2006, LB 860, § 1.

**79-1222 Educational service unit; services; to whom provided; contracting for health services.**

When requested in writing by local school boards or boards of education, the board of each educational service unit may, at its discretion and within the

limitations imposed by sections 79-1224 and 79-1225, (1) provide supplementary services to (a) the requesting school systems within its geographical area, (b) requesting school systems not within its geographical area to the extent allowed under the Educational Service Units Act, and (c) any other educational service unit, (2) plan and coordinate educational services within its geographical area whenever such services are offered on a cooperating basis between local school districts, and (3) contract for educational services with the board of any other educational service unit, any school district, any other educational agency, or any appropriate state or federal officer or agency, except that within that area of the service unit in which there exists an organized, full-time, approved city-county, multicounty, or regional health department with health services available, the educational service unit, if health services are provided, shall first seek to contract for school health services with such department for an amount of compensation agreeable to both such unit and board. The board of each educational service unit may charge for a portion or all of the costs of the additional services authorized by this section. If an educational service unit on December 25, 1969, has a health service facility, this section does not prevent the continued use by the unit of such facility. The educational service unit may contract with such health department to provide school health services for that area of the educational service unit not served by such city-county, multicounty, or regional health department.

**Source:** Laws 1965, c. 504, § 8, p. 1611; Laws 1969, c. 749, § 1, p. 2823; Laws 1969, c. 750, § 1, p. 2825; Laws 1972, LB 928, § 1; Laws 1979, LB 57, § 2; Laws 1987, LB 688, § 24; Laws 1994, LB 1310, § 15; R.S.1943, (1994), § 79-2208; Laws 1996, LB 900, § 939; Laws 1997, LB 347, § 48.

**79-1223 Educational service units; real estate; personal property; services; purchase; lease; bids.**

In order to carry out the purposes provided in section 79-1204, educational service units may purchase, lease, or lease-purchase real estate, equipment, supplies, services, and personal property for their own use. Educational service units may, either individually or collectively, purchase, lease, lease-purchase, or act as purchase agent for administrative and instructional supplies, instructional equipment, instructional services, and personal property for resale only to educational entities. When an educational service unit advertises for bids for administrative or instructional supplies, instructional equipment, instructional services, and personal property, acceptance of any bid submitted to the educational service unit shall obligate the educational service unit to award the contract in accordance with the plans and specifications and in the quantities set forth in the bid documents.

**Source:** Laws 1971, LB 734, § 1; Laws 1979, LB 57, § 1; Laws 1987, LB 688, § 13; R.S.1943, (1994), § 79-2201.01; Laws 1996, LB 900, § 940; Laws 2006, LB 1208, § 9; Laws 2007, LB603, § 21.

**79-1224 Governing board; state, county, or federal funds; use; tax; levy; matching of funds.**

The board of each educational service unit may receive, for the purpose for which made available, any school district, county, state, or federal funds made available to it, or funds or property received from any other source, and may

use tax revenue from the levy of the educational service unit for operational expenses and for the purpose of matching any funds that may be made available to it on a matching basis by any state or federal agency. The board of each educational service unit may utilize such personnel or services that may lawfully be offered by any state or federal agency or governmental unit.

**Source:** Laws 1965, c. 504, § 9, p. 1612; Laws 1972, LB 928, § 2; R.S.1943, (1994), § 79-2209; Laws 1996, LB 900, § 941.

**79-1225 Governing board; tax; levy; limitation; exception; proceeds; when remitted.**

(1) After the adoption of its budget statement, the board for each educational service unit, except as provided in subsection (2) of this section, may levy a tax in the amount which it requires under its adopted budget statement to be received from taxation. The levy shall be subject to the limits established by section 77-3442. The amount of such levy shall be certified by the secretary of the educational service unit board to the county board of equalization of each county in which any part of the geographical area of the educational service unit is located on or before September 30 of each year. Such tax shall be levied and assessed in the same manner as other property taxes and entered on the books of the county treasurer. The proceeds of such tax, as collected, shall be remitted to the treasurer of the board on or before the fifteenth day of each month or more frequently as provided in section 77-1759.

(2) For fiscal year 2013-14 and each fiscal year thereafter, only an educational service unit which has four or more member school districts or an educational service unit composed of a single Class IV or Class V school district may levy a tax on the taxable value of the taxable property within the geographic boundaries of the educational service unit.

**Source:** Laws 1965, c. 504, § 10, p. 1612; Laws 1969, c. 145, § 47, p. 700; Laws 1969, c. 746, § 7, p. 2813; Laws 1977, LB 391, § 2; Laws 1979, LB 178, § 2; Laws 1979, LB 187, § 248; Laws 1980, LB 599, § 15; Laws 1992, LB 1063, § 201; Laws 1992, Second Spec. Sess., LB 1, § 172; Laws 1993, LB 348, § 50; Laws 1993, LB 452, § 3; Laws 1993, LB 734, § 53; Laws 1995, LB 452, § 34; R.S. Supp., 1995, § 79-2210; Laws 1996, LB 900, § 942; Laws 1996, LB 1114, § 67; Laws 1999, LB 141, § 14; Laws 1999, LB 287, § 3; Laws 1999, LB 386, § 4; Laws 2008, LB1154, § 14; Laws 2012, LB446, § 2; Laws 2021, LB644, § 26.

Tax is authorized by this section to be levied for educational service units by the board, and is constitutional. *Frye v. Haas*, 182 Neb. 73, 152 N.W.2d 121 (1967).

**79-1226 Governing board; budget; prepare; contents.**

The board of each educational service unit, prior to the levying of any tax as provided by law, shall prepare a budget for the operation and maintenance of the educational service unit for the ensuing year. This budget shall itemize the contemplated expenditures and the expected revenue from taxation received by the educational service unit, from available federal, state, and county sources, from contractual revenue from school districts, and from all other agencies and sources.

**Source:** Laws 1969, c. 700, § 1, p. 2699; Laws 1972, LB 928, § 3; R.S.1943, (1994), § 79-2210.01; Laws 1996, LB 900, § 943.



## Cross References

Budget requirements, see section 13-517.

**79-1227 Budget; publication required.**

A summary of the prepared yearly budget of an educational service unit shall be published one time in a legal newspaper published in or of general circulation in each county in the unit at least five days before a meeting at which such budget shall be considered for adoption by the board. Such publication shall also specify the date, time, and place of the public hearing at which the budget will be considered and any tax levy made.

**Source:** Laws 1969, c. 700, § 2, p. 2699; Laws 1990, LB 1090, § 38; R.S.1943, (1994), § 79-2210.02; Laws 1996, LB 900, § 944.

**79-1228 Board; report of yearly activities; publication and distribution required.**

The board of an educational service unit shall cause to be published by November 1 of each year a brief report of the yearly activities of the board. The report shall include the amount of revenue received and expenditures itemized by categories. This publication shall be for one time in a newspaper of general circulation distributed in each county in the educational service unit. A copy of the report shall be distributed to each member school district by November 1 of each year.

**Source:** Laws 1969, c. 700, § 3, p. 2699; Laws 1990, LB 1090, § 39; R.S.1943, (1994), § 79-2210.03; Laws 1996, LB 900, § 945.

**79-1229 Annual financial report; contents; annual audit required; cost.**

(1) On or before January 31 of each year, the administrator of each educational service unit shall submit to the Commissioner of Education a report described as the annual financial report showing (a) the amount of money received from all sources during the year and the amount of money expended by the educational service unit during the year, (b) other information as necessary to fulfill the requirements of section 79-1241.03, and (c) such other information as the commissioner directs.

(2) The board of each educational service unit shall cause a complete and comprehensive annual audit to be made of the books, accounts, records, and affairs of the educational service unit. The audits shall be conducted annually, except that the Auditor of Public Accounts may determine an audit of less frequency to be appropriate but not less than once in any three-year period. The board of each educational service unit may contract with the Auditor of Public Accounts or select a licensed public accountant or certified public accountant or firm of such accountants to conduct the audit and shall be responsible for the cost of the audit pursuant to the contract. Such audit shall be conducted in the same manner as audits of county officers. The original copy of the audit shall be filed in the office of the Auditor of Public Accounts.

**Source:** Laws 1969, c. 700, § 4, p. 2699; Laws 1985, Second Spec. Sess., LB 29, § 4; Laws 1987, LB 183, § 5; R.S.1943, (1994), § 79-2210.04; Laws 1996, LB 900, § 946; Laws 2008, LB988, § 51.

**79-1230 Sections; supplemental to other law.**

Sections 79-1202 to 79-1230 shall be supplemental to any other law and shall not affect the reorganization of school districts as provided in the Reorganization of School Districts Act.

**Source:** Laws 1965, c. 504, § 12, p. 1612; Laws 1991, LB 511, § 66; Laws 1992, LB 245, § 71; R.S.1943, (1994), § 79-2212; Laws 1996, LB 900, § 947.

**Cross References**

**Reorganization of School Districts Act**, see section 79-432.

**79-1231 Special education; payment; to whom.**

When special education is provided by an educational service unit for children with disabilities as defined in section 79-1118.01, the payments provided by sections 79-1126 to 79-1144 shall be made to such educational service unit.

**Source:** Laws 1967, c. 517, § 1, p. 1737; Laws 1986, LB 1177, § 38; Laws 1987, LB 367, § 72; R.S.1943, (1994), § 79-2213; Laws 1996, LB 900, § 948; Laws 1997, LB 346, § 58.

**79-1232 Educational service unit; insurance coverage; authorized.**

The board of any educational service unit may permit its members to participate in the educational service unit's hospitalization, medical, surgical, accident, sickness, or term life insurance coverage or any one or more of such coverages. A board member electing to participate in the insurance program of the educational service unit shall pay both the employee and the employer portions of the premium for such coverage.

An educational service unit board which opts to permit its members to participate in insurance coverage under this section shall report quarterly at a board meeting the board members who have elected such coverage. Such a report shall be made available in the educational service unit office for review by the public upon request.

**Source:** Laws 1972, LB 1177, § 4; R.S.1943, (1994), § 79-2214; Laws 1996, LB 900, § 949; Laws 2008, LB850, § 3.

**79-1233 Access to telecomputing resources; powers and duties.**

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

Educational service units may enter into agreements pursuant to the Interlocal Cooperation Act and the Joint Public Agency Act to carry out this section.

Such agreements may include, but need not be limited to, provisions requiring any school district having telecomputing or distance education equipment connected to the educational service unit's telecomputing or distance education equipment to pay periodic fees necessary to cover the cost of such usage.

**Source:** Laws 1993, LB 348, § 49; Laws 1993, LB 452, § 2; Laws 1995, LB 860, § 3; R.S.Supp.,1995, § 79-2225; Laws 1996, LB 900, § 950; Laws 1999, LB 87, § 90; Laws 1999, LB 141, § 15; Laws 1999, LB 386, § 5; Laws 2006, LB 1208, § 10; Laws 2007, LB603, § 22; Laws 2010, LB1071, § 27.

Cross References

**Interlocal Cooperation Act**, see section 13-801.

**Joint Public Agency Act**, see section 13-2501.

**79-1234 Tenure; terms, defined.**

For purposes of sections 79-1234 to 79-1239, unless the context otherwise requires:

- (1) Board means the governing board of any educational service unit;
- (2) Certificated employee means any teacher, nurse, or other person required to have a certificate from the State Department of Education who is employed by an educational service unit;
- (3) Just cause means incompetency, neglect of duty, unprofessional conduct, insubordination, immorality, physical or mental incapacity, or other conduct which interferes substantially with the continued performance of duties or a change in circumstances such as financial exigency or a diminution of demand for services by the school districts served by the educational service unit necessitating a reduction in the number of teachers or nurses to be employed by the board;
- (4) Permanent certificated employee means a certificated employee (a) who has served under a contract with the educational service unit for at least three successive years under any contract which was entered into to create initial employment on or after September 1, 1986, or (b) who was initially employed by the educational service unit prior to September 1, 1986; and
- (5) Probationary certificated employee means a certificated employee who has served under a contract with the educational service unit for less than three successive years under any contract which was entered into to create initial employment on or after September 1, 1986.

**Source:** Laws 1986, LB 997, § 1; R.S.1943, (1994), § 79-2216; Laws 1996, LB 900, § 951.

**79-1235 Tenure; contract of certificated employee; how treated.**

The contract of a certificated employee shall be deemed renewed and remain in full force and effect unless amended, terminated, or not renewed in accordance with sections 79-1234 to 79-1239.

**Source:** Laws 1986, LB 997, § 2; R.S.1943, (1994), § 79-2217; Laws 1996, LB 900, § 952.

**79-1236 Tenure; certificated employee; contract amendment, termination, or nonrenewal; procedure; confidentiality.**

(1) Any certificated employee whose contract of employment may be amended, terminated, or not renewed for the following school year shall be notified in writing on or before April 15 of each year of such possible action on the contract. If the certificated employee wishes a hearing, a written request shall be sent to the secretary of the board or the administrator of the educational service unit within seven calendar days after receipt of the written notice. If a hearing on such amendment, termination, or nonrenewal is not requested within the time provided in this section, the board shall make a final determination. With regard to all hearings under sections 79-1234 to 79-1239, the certificated employee shall be advised in writing at least five days prior to the hearing of the date, time, and place of the hearing. All such hearings shall be held within thirty days after the date of the request for the hearing, except when the parties or their representatives, by a mutual agreement confirmed in writing, extend the time for hearings or final determinations by the board under such sections. Unless continued by written agreement between the parties or their representatives, final action by the board shall be taken on or before May 15 of each year.

(2) Prior to the hearing or action on the matter, if requested by the certificated employee, the notice of possible amendment, termination, or nonrenewal and the supporting reasons shall be considered a confidential employment matter as provided in sections 79-539, 79-8,109, and 84-1410 and shall not be released to the public or news media.

**Source:** Laws 1986, LB 997, § 3; R.S.1943, (1994), § 79-2218; Laws 1996, LB 900, § 953.

**79-1237 Tenure; board; subpoena powers.**

The board may on its own behalf, or shall upon the request of the certificated employee, his or her representative, or the educational service unit's administration, (1) subpoena and compel the attendance of witnesses residing within or outside this state for the purpose of appearing and testifying at any hearing provided for in sections 79-1234 to 79-1239 and for the purpose of taking the deposition of such witnesses in the manner prescribed by law for the taking of depositions in civil actions in the district courts and (2) issue subpoenas for the production of any papers, books, accounts, and documents.

**Source:** Laws 1986, LB 997, § 4; R.S.1943, (1994), § 79-2219; Laws 1996, LB 900, § 954.

**79-1238 Tenure; probationary certificated employee; amendment or nonrenewal of contract; grounds; procedures.**

(1) Upon request by the probationary certificated employee as provided in subsection (1) of section 79-1236, notice shall be provided which shall contain written reasons for the proposed amendment or nonrenewal of the probationary certificated employee's contract and shall be sufficiently specific so as to provide such employee the opportunity to prepare a response. The reasons set forth in the notice shall be employment related.

(2) The board may elect to amend or not renew the contract of a probationary certificated employee for any reason it deems sufficient if such nonrenewal or amendment is employment related and such nonrenewal or amendment is not for constitutionally impermissible reasons. Such nonrenewal or amendment shall be in accordance with sections 79-1234 to 79-1239. Amendment or

nonrenewal for reasons of reduction in force shall be in accordance with the procedures provided in sections 79-846 to 79-849 and 79-1234 to 79-1239.

(3) At any time prior to the holding of a hearing or prior to final determination by the board to amend or not renew the contract involved, the probationary certificated employee may submit a letter of resignation for the ensuing school year, which resignation shall be accepted by the board.

(4) The hearing, if requested, involving the question of the nonrenewal or amendment of a probationary certificated employee's contract shall not be a formal due process hearing but shall be an informal hearing before the board at which the probationary certificated employee involved or his or her representative shall be afforded the opportunity to discuss and explain to the board his or her position with regard to continued employment, to present information, and to ask questions of those appearing on behalf of the administration of the educational service unit. Such hearing shall be in closed session at the request of the probationary certificated employee involved or his or her representative and upon affirmative vote of the majority of the board members present and voting, but the formal action of the board for nonrenewal or amendment shall be in open session.

(5) The hearing for a probationary certificated employee may be held before a committee of the board consisting of not less than three of the board's total members, and total membership of the committee shall be odd numbered. Notice of such hearing shall be sent to all board members five days prior to such hearing. If a hearing is held before a committee, the majority opinion of the committee shall constitute a recommendation to the board, with the final determination being made by a majority vote of the members of the board without additional hearing.

**Source:** Laws 1986, LB 997, § 5; R.S.1943, (1994), § 79-2220; Laws 1996, LB 900, § 955.

**79-1239 Tenure; permanent certificated employee; amendment or termination of contract; grounds; procedures.**

(1) The board by a vote of the majority of its members may determine that a permanent certificated employee's contract shall be amended or terminated for any of the following reasons: (a) Just cause as defined in section 79-1234; (b) reduction in force as set forth in sections 79-846 to 79-849; (c) a change of leave-of-absence policy; (d) failure of the permanent certificated employee upon written request of the board or the administrators of the educational service unit to accept employment for the next school year within the time designated in the request, except that the permanent certificated employee shall not be required to signify such acceptance prior to March 15 of each year; or (e) revocation or suspension of the permanent certificated employee's certificate by the State Board of Education.

(2) If a hearing is requested by the permanent certificated employee, the formal due process hearing for the purpose of this section means a hearing procedure adopted by the board which contains at least the following: (a) Notification to the permanent certificated employee in writing at least five days prior to the hearing of the grounds alleged for the termination or amendment of the permanent certificated employee's contract; (b) upon request of the permanent certificated employee, a list of the names of any witnesses who will be called to testify against the certificated employee and an opportunity to exam-

ine any documents that will be presented at the hearing shall be provided at least five days prior to the hearing; (c) the right to be represented; and (d) an opportunity to cross-examine all witnesses, examine all documents, and present evidence material to the issues.

(3) Notice of the hearing shall be given in accordance with the Open Meetings Act. Upon an affirmative vote of a majority of the board's members present and voting and upon specific request of the permanent certificated employee or the permanent certificated employee's representative, the hearing shall be conducted in a closed session, but the formal action of the board shall be taken in open session.

(4) A majority of the members of the board shall render its decision to amend or terminate a permanent certificated employee's contract based solely upon the evidence produced at the hearing, shall reduce its findings and determination to writing, and shall deliver a written copy of the findings and determination to the permanent certificated employee.

**Source:** Laws 1986, LB 997, § 6; R.S.1943, (1994), § 79-2221; Laws 1996, LB 900, § 956; Laws 2003, LB 685, § 24; Laws 2004, LB 821, § 30.

Cross References

Open Meetings Act, see section 84-1407.

**79-1240 Repealed. Laws 1999, LB 5, § 1.**

**79-1241 Repealed. Laws 2009, LB 549, § 53.**

**79-1241.01 Core services; appropriation; legislative intent.**

To carry out section 79-1241.03, it is the intent of the Legislature to appropriate for each fiscal year the amount appropriated in the prior year increased by the percentage growth in the fall membership of member districts plus the basic allowable growth rate described in section 79-1025. For purposes of this section, fall membership has the same meaning as in section 79-1003. Fall membership data used to compute growth shall be from the two most recently available fall membership reports.

**Source:** Laws 1998, LB 1110, § 3; Laws 1999, LB 386, § 6; Laws 2006, LB 1208, § 11; Laws 2007, LB603, § 25; Laws 2009, LB549, § 47; Laws 2010, LB1071, § 28.

**79-1241.02 Repealed. Laws 2010, LB 1071, § 48.**

**79-1241.03 Distribution of funds; certification by department to educational service unit and learning community; distribution.**

(1) Two percent of the appropriation for core services and technology infrastructure funds shall be transferred to the Educational Service Unit Coordinating Council. The remainder of such funds shall be distributed pursuant to subsections (2) through (5) of this section.

(2)(a) The distance education and telecommunications allowance for each educational service unit shall equal eighty-five percent of the difference of the costs for telecommunications services, for access to data transmission networks that transmit data to and from the educational service unit, and for the transmission of data on such networks paid by the educational service unit as reported on the annual financial report for the most recently available complete

data year minus the receipts from the federal Universal Service Fund pursuant to 47 U.S.C. 254, as such section existed on January 1, 2021, for the educational service unit as reported on the annual financial report for the most recently available complete data year and minus any receipts from school districts or other educational entities for payment of such costs as reported on the annual financial report of the educational service unit.

(b) The base allocation of each educational service unit shall equal two and one-half percent of the funds appropriated for distribution pursuant to this section.

(c) The satellite office allocation for each educational service unit shall equal one percent of the funds appropriated for distribution pursuant to this section for each office of the educational service unit, except the educational service unit headquarters, up to the maximum number of satellite offices. The maximum number of satellite offices used for the calculation of the satellite office allocation for any educational service unit shall equal the difference of the ratio of the number of square miles within the boundaries of the educational service unit divided by four thousand minus one with the result rounded to the closest whole number.

(d) The statewide adjusted valuation shall equal the total adjusted valuation for all member districts of educational service units pursuant to section 79-1016 used for the calculation of state aid for school districts pursuant to the Tax Equity and Educational Opportunities Support Act for the school fiscal year for which the distribution is being calculated pursuant to this section.

(e) The adjusted valuation for each educational service unit shall equal the total adjusted valuation of the member school districts pursuant to section 79-1016 used for the calculation of state aid for school districts pursuant to the act for the school fiscal year for which the distribution is being calculated pursuant to this section, except that such adjusted valuation for member school districts that are also member districts of a learning community shall be reduced by ten percent. The adjusted valuation for each learning community shall equal ten percent of the total adjusted valuation of the member school districts pursuant to section 79-1016 used for the calculation of state aid for school districts pursuant to the act for the school fiscal year for which the distribution is being calculated pursuant to this section.

(f) The local effort rate shall equal \$0.0135 per one hundred dollars of adjusted valuation.

(g) The statewide student allocation shall equal the difference of the sum of the amount appropriated for distribution pursuant to this section plus the product of the statewide adjusted valuation multiplied by the local effort rate minus the distance education and telecommunications allowance, base allocation, and satellite office allocation for all educational service units and minus any adjustments required by subsection (4) of this section.

(h) The sparsity adjustment for each educational service unit and learning community shall equal the sum of one plus one-tenth of the ratio of the square miles within the boundaries of the educational service unit divided by the fall membership of the member school districts for the school fiscal year immediately preceding the school fiscal year for which the distribution is being calculated pursuant to this section.

(i) The adjusted students for each multidistrict educational service unit shall equal the fall membership for the school fiscal year immediately preceding the

school fiscal year for which aid is being calculated of the member school districts that will not be members of a learning community and ninety percent of the fall membership for such school fiscal year of the member school districts that will be members of a learning community pursuant to this section multiplied by the sparsity adjustment for the educational service unit. The adjusted students for each single-district educational service unit shall equal ninety-five percent of the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated if the member school district will not be a member of a learning community and eighty-five percent of the fall membership for such school fiscal year if the member school district will be a member of a learning community pursuant to this section, multiplied by the sparsity adjustment for the educational service unit. The adjusted students for each learning community shall equal ten percent of the fall membership for such school fiscal year of the member school districts multiplied by the sparsity adjustment for the learning community.

(j) The per student allocation shall equal the statewide student allocation divided by the total adjusted students for all educational service units and learning communities.

(k) The student allocation for each educational service unit and learning community shall equal the per student allocation multiplied by the adjusted students for the educational service unit or learning community.

(l) The needs for each educational service unit shall equal the sum of the distance education and telecommunications allowance, base allocation, satellite office allocation, and student allocation for the educational service unit and the needs for each learning community shall equal the student allocation for the learning community.

(m) The distribution of core services and technology infrastructure funds for each educational service unit and learning community shall equal the needs for each educational service unit or learning community minus the product of the adjusted valuation for the educational service unit or learning community multiplied by the local effort rate.

(3) If an educational service unit is the result of a merger or received new member school districts from another educational service unit, the educational service unit shall be considered a new educational service unit for purposes of this section. For each new educational service unit, the needs minus the distance education and telecommunications allowance for such new educational service unit shall, for each of the three fiscal years following the fiscal year in which the merger takes place or the new member school districts are received, equal an amount not less than the needs minus the distance education and telecommunications allowance for the portions of the educational service units transferred to the new educational service unit for the fiscal year immediately preceding the merger or receipt of new member school districts, except that if the total amount available to be distributed pursuant to subsections (2) through (5) of this section for the year for which needs are being calculated is less than the total amount distributed pursuant to such subsections for the fiscal year immediately preceding the merger or receipt of new member school districts, the minimum needs minus the distance education and telecommunications allowance for each educational service unit pursuant to this subsection shall be reduced by a percentage equal to the ratio of such difference divided by the total amount distributed pursuant to subsections (2) through (5) of this section



for the fiscal year immediately preceding the merger or receipt of new member school districts. The needs minus the distance education and telecommunications allowance for the portions of educational service units transferred to the new educational service unit for the fiscal year immediately preceding a merger or receipt of new member school districts shall equal the needs minus the distance education and telecommunications allowance calculated for such fiscal year pursuant to subsections (2) through (5) of this section for any educational service unit affected by the merger or the transfer of school districts multiplied by a ratio equal to the valuation that was transferred to the new educational service unit for which the minimum is being calculated divided by the total valuation of the educational service unit transferring the territory.

(4) If the minimum needs minus the distance education and telecommunications allowance pursuant to subsection (3) of this section for any educational service unit exceeds the amount that would otherwise be calculated for such educational service unit pursuant to subsection (2) of this section, the statewide student allocation shall be reduced such that the total amount to be distributed pursuant to this section equals the appropriation for core services and technology infrastructure funds and no educational service unit has needs minus the distance education and telecommunications allowance less than the greater of any minimum amounts calculated for such educational service unit pursuant to subsection (3) of this section.

(5) The State Department of Education shall certify the distribution of core services and technology infrastructure funds pursuant to subsections (2) through (5) of this section to each educational service unit and learning community on or before July 1 of each year for the following school fiscal year. Except as otherwise provided in this subsection, any funds appropriated for distribution pursuant to 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 school fiscal year and ending in June. Payments to educational service units pursuant to this section shall be used for core services and technology infrastructure with the approval of representatives of two-thirds of the member school districts of the educational service unit, representing a majority of the adjusted students in the member school districts used in calculations pursuant to this section for such funds. The valuation of individual school districts shall not be considered in the utilization of such core services or technology infrastructure funds by member school districts for funds received after July 1, 2010. Funds distributed to learning communities shall be used for evaluation and research pursuant to section 79-2104.02 with the approval of the learning community coordinating council.

(6) For purposes of this section, the determination of whether or not a school district will be a member of an educational service unit or a learning community shall be based on the information available May 1 for the following school fiscal year.

(7) It is the intent of the Legislature that:

(a) Funding for core services and technology infrastructure for each educational service unit consist of both amounts received pursuant to this section and an amount greater than or equal to the product of the adjusted valuation for the educational service unit multiplied by the local effort rate; and

(b) Each multidistrict educational service unit use an amount equal to at least five percent of such funding for core services and technology infrastructure for cooperative projects between member school districts and that each such educational service unit use an amount equal to at least five percent of such funding for core services and technology infrastructure for statewide projects managed by the Educational Service Unit Coordinating Council.

**Source:** Laws 2007, LB603, § 24; Laws 2008, LB1154, § 15; Laws 2009, LB549, § 48; Laws 2010, LB1070, § 11; Laws 2012, LB446, § 3; Laws 2016, LB1067, § 59; Laws 2021, LB528, § 43.

**Cross References**

**Tax Equity and Educational Opportunities Support Act**, see section 79-1001.

**79-1242 Property tax funds; use.**

Funds generated from the property tax levy shall only be used for purposes approved by representatives of two-thirds of the member school districts in an educational service unit, representing a majority of the students in the member school districts. The valuation of individual school districts shall not be the only consideration in determining the utilization of such funds received after July 1, 2010. Each educational service unit shall prepare and transmit a written proposal of core services offerings and use of the property tax levy to all member school districts. The member school districts through their designated representatives shall indicate their approval or disapproval of the proposal within thirty calendar days after receipt of the proposal, and failure to so indicate within such time period shall be deemed approval of the proposal.

**Source:** Laws 1997, LB 806, § 62; Laws 1999, LB 363, § 1; Laws 2010, LB1070, § 12; Laws 2012, LB446, § 4.

**79-1243 Repealed. Laws 2010, LB 1071, § 48.**

**79-1244 Power to borrow money; conditions; authorization to accept loans from state or federal government.**

(1)(a) Any educational service unit may borrow money to the amount of seventy percent of the unexpended balance of total anticipated receipts of the general fund for the current fiscal year and the following fiscal year. Total anticipated receipts of the general fund for the current fiscal year and the following fiscal year means a sum equal to the total of (i) the anticipated receipts from the current existing levy multiplied by two, (ii) the anticipated receipts from the state for core services and technology infrastructure for the current fiscal year and the following fiscal year, (iii) the anticipated receipts from the United States for the current fiscal year and the following fiscal year, and (iv) the anticipated receipts from other sources for the current fiscal year and the following fiscal year.

(b) Any educational service unit may execute and deliver in evidence thereof its promissory notes which it is hereby authorized and empowered to make and negotiate, bearing a rate of interest set by the educational service unit board and maturing not more than two fiscal years from the date thereof. Such notes, before they are negotiated, shall be presented to the treasurer of the educational service unit and registered by him or her and shall be payable out of the funds collected by such educational service unit in the order of their registry after the payment of prior registered warrants but prior to the payment of any

warrant subsequently registered, except that if both warrants and notes are registered, the total of such registered notes and warrants shall not exceed one hundred percent of the unexpended balance of the total anticipated receipts of the general fund of such educational service unit for the current fiscal year and the following fiscal year. For the purpose of making such calculation, such total anticipated receipts shall not include any anticipated receipts against which the educational service unit has borrowed and issued notes pursuant to this section in either the current or the immediately preceding fiscal year.

(2) In addition to the authority granted by subsection (1) of this section, any educational service unit may accept interest-free or low-interest loans from the state or federal government and may execute and deliver in evidence thereof its promissory notes maturing not more than twenty years from the date of execution.

(3) In addition to the authority granted by subsections (1) and (2) of this section, any educational service unit may enter into loan agreements for the purpose of borrowing money from financial institutions, including banks, in amounts not in excess of seventy percent of the unexpended balance of its current existing levy. As evidence of such borrowing, an educational service unit may execute and deliver one or more written loan agreements but shall not be required to execute and deliver separate promissory notes for each borrowing under such agreements. Money borrowed pursuant to such agreements shall bear interest at such rate or rates and shall become due and be repaid as provided in such agreements. Any such agreement shall provide for repayment in full at least once each fiscal year and shall be for a term not exceeding one fiscal year. Any such agreement shall be registered upon books kept by the treasurer of the educational service unit, and money borrowed pursuant to such agreement shall be paid out of funds collected upon the current existing levy prior to the payment of any warrant or note registered subsequent to any such loan agreement. If an educational service unit has any such loan agreement or agreements outstanding and has warrants or notes registered, as described in subsection (1) of this section, the total amount (a) of borrowings pursuant to such loan agreement or agreements and (b) of registered notes and warrants shall not exceed one hundred percent of the unexpended balance of the current existing levy.

(4) Nothing in this section shall be construed to exempt an educational service unit from the terms and conditions contained in sections 10-701 to 10-716.

**Source:** Laws 2002, Second Spec. Sess., LB 5, § 1.

**79-1245 Educational Service Unit Coordinating Council; created; composition; funding; powers.**

(1) The Educational Service Unit Coordinating Council is created. The council shall be composed of one administrator from each educational service unit and beginning July 1, 2017, one nonvoting administrator from each learning community. The council shall be funded from two percent of the core services and technology infrastructure funding appropriated pursuant to section 79-1241.03, appropriations by the Legislature for distance education, and fees established for services provided to educational entities.

(2) The council is a political subdivision and a public body corporate and politic of this state, exercising public powers separate from the participating

educational service units. The council shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a political subdivision and a public body corporate and politic but shall not have taxing power.

(3) The council shall have power (a) to sue and be sued, (b) to have a seal and alter the same at will or to dispense with the necessity thereof, (c) to make and execute contracts and other instruments, (d) to receive, hold, and use money and real and personal property, (e) to hire and compensate employees, including certificated employees, (f) to act as a fiscal agent for statewide initiatives being implemented by employees of one or more educational service units, and (g) from time to time, to make, amend, and repeal bylaws, rules, and regulations not inconsistent with sections 79-1245 to 79-1249. Such power shall only be used as necessary or convenient to carry out and effectuate the powers and purposes of the council.

**Source:** Laws 2007, LB603, § 16; Laws 2010, LB1071, § 29; Laws 2016, LB1067, § 60.

**79-1246 Educational Service Unit Coordinating Council; duties; Open Meetings Act applicable.**

(1) The Educational Service Unit Coordinating Council shall work toward statewide coordination to provide the most cost-effective services for the students, teachers, and school districts in each educational service unit. The council's duties include, but are not limited to:

- (a) Preparation of strategic plans to assure the cost-efficient and equitable delivery of services across the state;
- (b) Administration of statewide initiatives and provision of statewide services; and
- (c) Coordination of distance education.

(2) All activities conducted by the council shall be conducted in accordance with the Open Meetings Act. This section does not require or provide for state control of the operations of any educational service unit or abridge the governance ability, rights, or responsibilities of any educational service unit board.

**Source:** Laws 2007, LB603, § 17.

**Cross References**

**Open Meetings Act**, see section 84-1407.

**79-1247 Educational Service Unit Coordinating Council; appoint distance education director; council director authorized; salaries; expenses; duties; contract authorized; other appointments authorized.**

The Educational Service Unit Coordinating Council shall appoint a distance education director and may appoint a council director, both of whom shall hold office at the pleasure of the council. The council director and the distance education director shall receive such salaries as the council determines and shall be reimbursed for their actual expenses incurred in the performance of their duties. The council may contract with individual educational service units for the employment of the council director or the distance education director, except that the supervisory responsibilities for such employees shall remain with the council.

The council director and the distance education director shall perform duties as the council directs and shall not be members of the council. The council may also appoint or retain such other persons as it may deem necessary for the performance of its functions and shall prescribe their duties, fix their compensation, and provide for reimbursement of their actual and necessary expenses within the amounts available in the budget of the council.

**Source:** Laws 2007, LB603, § 18; Laws 2010, LB1071, § 30.

**79-1248 Educational Service Unit Coordinating Council; powers and duties.**

The powers and duties of the Educational Service Unit Coordinating Council include, but are not limited to:

- (1) Providing public access to lists of qualified distance education courses;
- (2) Collecting and providing school schedules for participating educational entities;
- (3) Facilitation of scheduling for qualified distance education courses;
- (4) Brokering of qualified distance education courses to be purchased by educational entities;
- (5) Assessment of distance education needs and evaluation of distance education services;
- (6) Compliance with technical standards as set forth by the Nebraska Information Technology Commission and academic standards as set forth by the State Department of Education related to distance education;
- (7) Establishment of a system for scheduling courses brokered by the council and for choosing receiving educational entities when the demand for a course exceeds the capacity as determined by either the technology available or the course provider;
- (8) Administration of learning management systems, either through the staff of the council or by delegation to an appropriate educational entity, with the funding for such systems provided by participating educational entities; and
- (9) Coordination with educational service units and postsecondary educational institutions to provide assistance for instructional design for both two-way interactive video distance education courses and the offering of graduate credit courses in distance education.

**Source:** Laws 2006, LB 1208, § 20; R.S.Supp.,2006, § 79-1334; Laws 2007, LB603, § 19; Laws 2010, LB1071, § 31.

**79-1249 Educational Service Unit Coordinating Council; assistance provided.**

The Educational Service Unit Coordinating Council shall only provide assistance in brokering or scheduling courses to educational entities that have access to Network Nebraska. All costs to the council associated with assisting private, denominational, or parochial schools and private postsecondary educational institutions shall be paid by such private, denominational, or parochial school or private postsecondary educational institution. Any services of the council may also be offered to other public entities with access to Network Nebraska on a contractual basis.

**Source:** Laws 2006, LB 1208, § 21; R.S.Supp.,2006, § 79-1335; Laws 2007, LB603, § 20; Laws 2010, LB1071, § 32.

## ARTICLE 13

## EDUCATIONAL TECHNOLOGY AND TELECOMMUNICATIONS

## (a) EDUCATIONAL TECHNOLOGY

## Section

- 79-1301. Repealed. Laws 2006, LB 1208, § 32.
- 79-1302. Educational technology; legislative findings.
- 79-1303. Educational Technology Center; created; mission.
- 79-1304. Educational Technology Center; duties.
- 79-1305. Repealed. Laws 2006, LB 1208, § 32.
- 79-1306. Repealed. Laws 2006, LB 1208, § 32.
- 79-1307. Repealed. Laws 2006, LB 1208, § 32.
- 79-1308. Repealed. Laws 2003, LB 67, § 34.
- 79-1309. Repealed. Laws 2003, LB 67, § 34.
- 79-1310. Repealed. Laws 2006, LB 1208, § 32.
- 79-1311. Repealed. Laws 2003, LB 67, § 34.

## (b) EDUCATIONAL TELECOMMUNICATIONS

- 79-1312. Act, how cited.
- 79-1313. Nebraska Educational Telecommunications Commission; creation; purpose.
- 79-1314. Terms, defined.
- 79-1315. Nebraska Educational Telecommunications Commission; membership; appointment; term; expenses.
- 79-1316. Educational telecommunications; commission; powers; duties.
- 79-1317. Educational telecommunications; commission; establish fees.
- 79-1318. Educational telecommunications; commission; instrumentality of state; may sue and be sued.
- 79-1319. Educational telecommunications; operation on noncommercial basis; exceptions; service available to all schools and colleges; costs.
- 79-1320. State Educational Telecommunications Fund; created; use; investment.
- 79-1321. Act; not construed to require violation of federal copyright law.
- 79-1322. Commission; power of eminent domain; purpose.
- 79-1323. Repealed. Laws 2014, LB 692, § 8.
- 79-1324. Repealed. Laws 2014, LB 692, § 8.
- 79-1325. Repealed. Laws 2014, LB 692, § 8.
- 79-1326. Repealed. Laws 2002, LB 93, § 27.
- 79-1327. Repealed. Laws 2002, LB 93, § 27.

## (c) DISTANCE EDUCATION

- 79-1328. Repealed. Laws 2006, LB 1208, § 32.
- 79-1329. Repealed. Laws 2006, LB 1208, § 32.
- 79-1330. Repealed. Laws 2006, LB 1208, § 32.
- 79-1331. Repealed. Laws 2010, LB 1071, § 48.
- 79-1332. Repealed. Laws 2007, LB 603, § 39.
- 79-1333. Repealed. Laws 2007, LB 603, § 39.
- 79-1334. Transferred to section 79-1248.
- 79-1335. Transferred to section 79-1249.
- 79-1336. Repealed. Laws 2021, LB528, § 73.
- 79-1337. Distance education incentives; application; contents; calculation of incentives; denial of incentives; appeal.

## (a) EDUCATIONAL TECHNOLOGY

**79-1301 Repealed. Laws 2006, LB 1208, § 32.**

**79-1302 Educational technology; legislative findings.**

The Legislature finds that the utilization of appropriate technologies can provide enhanced educational services and broadened educational opportunities for Nebraska learners. It is the intent of the Legislature: (1) To utilize

technology to provide effective and efficient digital learning; (2) to provide assistance and direction in the training of Nebraska teachers in uses of technology for instruction through electronic means; (3) to establish and support an electronic data network and databases for Nebraska educators and learners; (4) to support the evaluation and dissemination of models of successful technologies which improve instruction or learning; (5) to provide support for cooperative education-technology ventures in partnership with public or private entities; and (6) to provide support for cooperative purchase or leasing of administrative or instructional software or software licenses in partnership with schools, educational service units, and other states.

**Source:** Laws 1988, LB 1117, § 1; R.S.1943, (1994), § 79-4,140.09; Laws 1996, LB 900, § 958; Laws 2006, LB 1208, § 14; Laws 2019, LB675, § 51.

**79-1303 Educational Technology Center; created; mission.**

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

**Source:** Laws 1988, LB 1117, § 2; Laws 1990, LB 1090, § 9; R.S.1943, (1994), § 79-4,140.10; Laws 1996, LB 900, § 959; Laws 2003, LB 67, § 28; Laws 2006, LB 1208, § 15.

**79-1304 Educational Technology Center; duties.**

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

- (1) To evaluate Internet-based digital education courses and open education resources;
- (2) To provide clearinghouse services for information concerning current technology projects as well as software and hardware development;
- (3) To serve as a demonstration site for state-of-the-art hardware appropriate to an educational setting;
- (4) To provide technical assistance to educators in working with software and Internet-based resources;
- (5) To provide inservice and preservice training for educators, in conjunction with other educational entities as defined in section 79-1201.01, in the use of digital devices, communication systems, and other electronic technologies appropriate to an educational setting;
- (6) To sponsor activities which promote the use of technology in the classroom;
- (7) To serve as a liaison between business and education interests in technology communication;
- (8) To support research and recommendations for digital applications and technology in education;
- (9) To assist schools in planning for and selecting appropriate technologies;

(10) To design, implement, and evaluate pilot projects to assess the usefulness of technologies in school management, curriculum, instruction, and learning;

(11) To seek partnerships with the Nebraska Educational Telecommunications Commission, the University of Nebraska, the state colleges, community colleges, educational service units, the Nebraska Library Commission, the office of the Chief Information Officer, Network Nebraska, and other public and private entities in order to make effective use of limited resources;

(12) To encourage sharing among school districts to deliver cost-efficient and effective digital learning; and

(13) To identify, evaluate, and disseminate information on school projects which have the potential to enhance the quality of instruction or learning.

**Source:** Laws 1988, LB 1117, § 3; R.S.1943, (1994), § 79-4,140.11; Laws 1996, LB 900, § 960; Laws 2006, LB 1208, § 16; Laws 2007, LB603, § 28; Laws 2019, LB675, § 52.

**79-1305 Repealed. Laws 2006, LB 1208, § 32.**

**79-1306 Repealed. Laws 2006, LB 1208, § 32.**

**79-1307 Repealed. Laws 2006, LB 1208, § 32.**

**79-1308 Repealed. Laws 2003, LB 67, § 34.**

**79-1309 Repealed. Laws 2003, LB 67, § 34.**

**79-1310 Repealed. Laws 2006, LB 1208, § 32.**

**79-1311 Repealed. Laws 2003, LB 67, § 34.**

#### (b) EDUCATIONAL TELECOMMUNICATIONS

**79-1312 Act, how cited.**

Sections 79-1312 to 79-1322 shall be known and may be cited as the Nebraska Educational Telecommunications Act.

**Source:** Laws 1963, c. 468, § 6, p. 1500; Laws 1984, LB 645, § 7; Laws 1988, LB 939, § 2; Laws 1995, LB 89, § 1; R.S.Supp.,1995, § 79-2106; Laws 1996, LB 900, § 968; Laws 2002, LB 93, § 20; Laws 2014, LB692, § 1; Laws 2023, LB254, § 6.

**79-1313 Nebraska Educational Telecommunications Commission; creation; purpose.**

The Nebraska Educational Telecommunications Act creates the Nebraska Educational Telecommunications Commission for the purpose of (1) promoting and establishing noncommercial educational telecommunications facilities within the State of Nebraska, (2) providing noncommercial educational telecommunications programs throughout the State of Nebraska by digital broadcast, by closed-circuit transmission, by Internet-based delivery, or by other telecommunications technology distribution systems, (3) operating statewide educational and public radio and television networks, facilities, and services, and (4) providing closed-captioned live video coverage of the Legislature as provided in section 79-1316. The commission shall seek funding from federal,



state, foundation, and private sources for capital construction and annual operations.

**Source:** Laws 1963, c. 468, § 1, p. 1497; Laws 1984, LB 645, § 1; Laws 1986, LB 461, § 1; R.S.1943, (1994), § 79-2101; Laws 1996, LB 900, § 969; Laws 1997, LB 347, § 50; Laws 2014, LB692, § 2; Laws 2023, LB254, § 7.

**79-1314 Terms, defined.**

For purposes of the Nebraska Educational Telecommunications Act, unless the context otherwise requires:

(1) Telecommunications includes statewide digital public television and public radio transmissions and other telecommunications technology distribution systems; and

(2) Educational telecommunications means the organization and use of programs, technologies, and devices to store, archive, retrieve, process, display, receive, or transmit, by any means, information for the purpose of carrying out educational or other governmental entities' objectives.

**Source:** Laws 1984, LB 645, § 2; Laws 1986, LB 461, § 3; R.S.1943, (1994), § 79-2106.01; Laws 1996, LB 900, § 970; Laws 1997, LB 347, § 51; Laws 2014, LB692, § 3.

**79-1315 Nebraska Educational Telecommunications Commission; membership; appointment; term; expenses.**

(1) The Nebraska Educational Telecommunications Commission shall be composed of eleven members, as follows: (a) The Commissioner of Education or his or her designee; (b) the President of the University of Nebraska or his or her designee; (c) a representative of the state colleges; (d) a representative of the community colleges; (e) a representative of private educational institutions of the State of Nebraska; and (f) six members of the general public, none of whom shall be associated with any of the institutions listed in subdivisions (a) through (e) of this subsection and two of whom shall be from each congressional district. No more than four of the members shall be actively engaged in the teaching profession or administration of an educational institution.

(2) The members described in subdivisions (1)(c) through (1)(f) of this section shall be appointed by the Governor with the approval of the Legislature for terms of four years, and the term of the member described in subdivision (1)(d) of this section shall be the same as the term of the member described in subdivision (1)(c) of this section. Vacancies shall be filled by the Governor for the unexpired term. The commission shall be nonpolitical in character, and selection of the members of the commission shall be made on a nonpolitical basis. No member of the commission shall receive any compensation for his or her services. Reimbursement shall be provided for reasonable and necessary expenses incurred in attending scheduled meetings of the commission as provided in sections 81-1174 to 81-1177.

If the Commissioner of Education is unable to attend a commission meeting, his or her designee is authorized to act on behalf of the commissioner, and if the President of the University of Nebraska or his or her designee is unable to

attend a commission meeting, the Executive Vice President and Provost for academic affairs is authorized to act on his or her behalf.

**Source:** Laws 1963, c. 468, § 2, p. 1497; Laws 1965, c. 534, § 1, p. 1679; Laws 1969, c. 741, § 1, p. 2794; Laws 1969, c. 742, § 1, p. 2795; Laws 1981, LB 204, § 161; Laws 1984, LB 645, § 3; Laws 1988, LB 939, § 1; Laws 1991, LB 43, § 1; Laws 1994, LB 854, § 1; R.S.1943, (1994), § 79-2102; Laws 1996, LB 900, § 971; Laws 1997, LB 347, § 52; Laws 2015, LB525, § 26.

**79-1316 Educational telecommunications; commission; powers; duties.**

The powers and duties of the Nebraska Educational Telecommunications Commission are:

(1) To promote and sponsor a noncommercial educational television network to serve a series of interconnecting units throughout the State of Nebraska;

(2) To promote and support locally operated or state-operated noncommercial educational radio stations with satellite receiving capabilities and improved transmitter coverage;

(3) To apply for and to receive and hold such authorizations, licenses, and assignments of channels from the Federal Communications Commission as may be necessary to conduct such educational telecommunications programs by standard radio and television broadcast or by other telecommunications technology broadcast systems and to prepare, file, and prosecute before the Federal Communications Commission all applications, reports, or other documents or requests for authorization of any kind necessary or appropriate to achieve the purposes set forth in the Nebraska Educational Telecommunications Act;

(4) To receive gifts and contributions from public and private sources to be expended in providing educational telecommunications facilities and programs;

(5) To acquire real estate and other property as an agency of the State of Nebraska and to hold and use the same for educational telecommunications purposes;

(6) To contract for the construction, repair, maintenance, and operation of telecommunications facilities;

(7) To contract with common carriers, qualified under the laws of the State of Nebraska, to provide interconnecting channels or satellite facilities in support of radio, television, and other telecommunications technology services unless it is first determined by the Nebraska Educational Telecommunications Commission that state-owned interconnecting channels can be constructed and operated that would furnish a comparable quality of service at a cost to the state that would be less than if such channels were provided by qualified common carriers;

(8) To provide for programming for the visually impaired, other print-handicapped persons, and the deaf and hard of hearing as authorized by the Federal Communications Commission under subsidiary communications authority rules, through contracts with appropriate nonprofit corporations or organizations which have been created for such purpose;

(9) To arrange for the operation of statewide educational telecommunications networks, as directed by the Nebraska Educational Telecommunications Commission, consistent with the provisions of the federal Communications Act of 1934, as amended, and applicable rules and regulations, with policies of the

Federal Communications Commission, in cooperation with the State Board of Education insofar as elementary and secondary education programs are concerned, and in cooperation with the Coordinating Commission for Postsecondary Education insofar as postsecondary education programs are concerned;

(10) After taking into consideration the needs of the entire state, to establish and maintain general policies relating to the nature and character of educational telecommunications broadcasts or transmissions;

(11) To review, or cause to be reviewed by a person designated by the Nebraska Educational Telecommunications Commission, all programs presented on the network prior to broadcast or transmission to insure that the programs are suitable for viewing and listening. Such suitability shall be determined by evaluating the content of the program, and screening the programs if necessary, as to their educational value and whether they enhance the cultural appreciation of the viewer and listener and do not appeal to his or her prurient interest. When it is obvious from an examination of the descriptive program materials that a program is suitable for presenting on the network, no further review shall be required;

(12) To cooperate with federal or state agencies for the purpose of obtaining matching federal or state funds and providing educational telecommunications facilities of all types throughout the state and to make such reports as may be required of recipients of matching funds;

(13) To arrange for and provide digital radio and television broadcast and other telecommunications technology transmissions of noncommercial educational telecommunications programs to Nebraska citizens and institutions, but no tax funds shall be used for program advertising which may only be financed out of funds received from foundations or individual gifts;

(14) To coordinate with Nebraska agencies that deal with telecommunications activities and are supported in whole or in part by public funds;

(15) To adopt bylaws for the conduct of its affairs;

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

(17) To publish such informational material as it deems necessary and it may, at its discretion, charge appropriate fees therefor. The proceeds of all such fees shall be remitted to the State Treasurer for credit to the State Educational Telecommunications Fund and shall be used by the commission solely for publishing such informational material. The commission shall provide to newspapers, radio stations, and other news media program schedules informing the public of programs approved by the commission;

(18) To maintain a digital archive of programs and educational content containing stories, events, individuals, and performances which are significant or prominent in Nebraska history; and

(19) Subject to policies and procedures developed by the Executive Board of the Legislative Council pursuant to section 50-117, to provide live, closed-captioned video coverage of the Legislature, including floor debate and public committee hearings, beginning with coverage of the One Hundred Ninth Legislature, First Session, in January 2025 or as soon as the commission has

closed-captioning capabilities, whichever is sooner. Closed-captioned video coverage shall include closed captioning in both English and Spanish.

**Source:** Laws 1963, c. 468, § 3, p. 1497; Laws 1965, c. 535, § 2, p. 1682; Laws 1969, c. 743, § 1, p. 2799; Laws 1969, c. 744, § 1, p. 2802; Laws 1969, c. 742, § 2, p. 2796; Laws 1974, LB 306, § 1; Laws 1984, LB 645, § 4; Laws 1986, LB 461, § 2; R.S.1943, (1994), § 79-2103; Laws 1996, LB 900, § 972; Laws 1997, LB 347, § 53; Laws 2000, LB 1328, § 1; Laws 2011, LB331, § 1; Laws 2014, LB692, § 4; Laws 2023, LB254, § 8.

**79-1317 Educational telecommunications; commission; establish fees.**

The Nebraska Educational Telecommunications Commission, in consultation with users of its telecommunications facilities, networks, and equipment, may establish user fees, penalty fees, or other fees as necessary for and consistent with the efficient and orderly use of its facilities, networks, and equipment.

**Source:** Laws 1995, LB 89, § 2; R.S.Supp.,1995, § 79-2103.01; Laws 1996, LB 900, § 973; Laws 2014, LB692, § 5.

**79-1318 Educational telecommunications; commission; instrumentality of state; may sue and be sued.**

The Nebraska Educational Telecommunications Commission is hereby constituted an instrumentality of the State of Nebraska and may sue and be sued by the name Nebraska Educational Telecommunications Commission.

**Source:** Laws 1963, c. 468, § 4, p. 1499; Laws 1984, LB 645, § 5; R.S.1943, (1994), § 79-2104; Laws 1996, LB 900, § 974.

**79-1319 Educational telecommunications; operation on noncommercial basis; exceptions; service available to all schools and colleges; costs.**

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

Operational and administrative service pertinent to the production and utilization of educational telecommunications services shall be made available to all schools and colleges of Nebraska on the basis of the actual cost of production exclusive of general overhead expense.

**Source:** Laws 1963, c. 468, § 5, p. 1499; Laws 1984, LB 645, § 6; R.S.1943, (1994), § 79-2105; Laws 1996, LB 900, § 975; Laws 1996, LB 1138, § 1; Laws 1999, LB 860, § 1; Laws 2006, LB 1208, § 24; Laws 2014, LB692, § 6.

**79-1320 State Educational Telecommunications Fund; created; use; investment.**

The State Educational Telecommunications Fund is created. The fund shall be used by the Nebraska Educational Telecommunications Commission for the purposes of carrying out the provisions of the Nebraska Educational Telecommunications Act, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. The State Educational Telecommunications Fund shall consist of such sums as the Legislature may appropriate. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1963, c. 467, § 1, p. 1496; Laws 1969, c. 584, § 91, p. 2402; Laws 1984, LB 645, § 8; Laws 1995, LB 7, § 92; R.S.Supp., 1995, § 79-2107; Laws 1996, LB 900, § 976; Laws 2009, First Spec. Sess., LB3, § 60.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

**79-1321 Act; not construed to require violation of federal copyright law.**

Nothing in the Nebraska Educational Telecommunications Act shall be construed to require the Nebraska Educational Telecommunications Commission to post or distribute any work in a manner that would constitute a violation of federal copyright law.

**Source:** Laws 2023, LB254, § 9.

**79-1322 Commission; power of eminent domain; purpose.**

Subject to the approval of the Legislature and, if the Legislature is not in session, the Executive Board of the Legislative Council, the Nebraska Educational Telecommunications Commission is authorized and empowered to acquire in the name of the State of Nebraska real estate by the use of eminent domain as provided in sections 72-213 to 72-222 for the following purposes:

- (1) For transmitter buildings and tower sites with access roads;
- (2) For guy anchors for towers; and
- (3) For transmission and reception facilities of telecommunications technology distribution systems.

**Source:** Laws 1965, c. 535, § 1, p. 1680; Laws 1969, c. 745, § 1, p. 2805; Laws 1984, LB 645, § 9; Laws 1986, LB 461, § 4; R.S.1943, (1994), § 79-2109; Laws 1996, LB 900, § 978; Laws 1997, LB 347, § 54.

**79-1323 Repealed. Laws 2014, LB 692, § 8.**

**79-1324 Repealed. Laws 2014, LB 692, § 8.**

**79-1325 Repealed. Laws 2014, LB 692, § 8.**

**79-1326 Repealed. Laws 2002, LB 93, § 27.**

**79-1327 Repealed. Laws 2002, LB 93, § 27.**

## (c) DISTANCE EDUCATION

**79-1328 Repealed. Laws 2006, LB 1208, § 32.**

**79-1329 Repealed. Laws 2006, LB 1208, § 32.**

**79-1330 Repealed. Laws 2006, LB 1208, § 32.**

**79-1331 Repealed. Laws 2010, LB 1071, § 48.**

**79-1332 Repealed. Laws 2007, LB 603, § 39.**

**79-1333 Repealed. Laws 2007, LB 603, § 39.**

**79-1334 Transferred to section 79-1248.**

**79-1335 Transferred to section 79-1249.**

**79-1336 Repealed. Laws 2021, LB528, § 73.**

**79-1337 Distance education incentives; application; contents; calculation of incentives; denial of incentives; appeal.**

(1) For fiscal years 2007-08 through 2028-29, the State Department of Education shall provide distance education incentives to school districts and educational service units for qualified distance education courses coordinated through the Educational Service Unit Coordinating Council as provided in this section. For fiscal years 2016-17 through 2023-24, funding for such distance education incentives shall come from the Nebraska Education Improvement Fund. For fiscal years 2024-25 through 2028-29, funding for such distance education incentives shall come from transfers pursuant to section 79-3501.

(2) School districts and educational service units shall apply for incentives annually through calendar year 2028 to the department on or before August 1 on a form specified by the department. The application shall:

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

(b) For school districts and educational service units, specify (i) the qualified distance education courses which were received by students in the membership of another educational entity in the then-current school fiscal year and which were taught by a teacher employed by the school district or educational service unit, (ii) for each such course for school districts, the number of students in the membership of the district who received the course, and (iii) for each such course (A) the other educational entities in which students received the course and how many students received the course at such educational entities, (B) any school district that is sparse or very sparse as such terms are defined in section 79-1003 that had at least one student in the membership who received the course, and (C) whether the course was a two-way interactive video distance education course.

(3) On or before September 1 of each year through calendar year 2028, the department shall certify the incentives for each school district and educational

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

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

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

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

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

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

(b)(i) For fiscal years through fiscal year 2023-24, the difference of the amount available for distribution pursuant to subdivision (4)(c)(vi) of section 79-3501 in the Nebraska Education Improvement Fund on the August 1 when the applications were due shall be divided by the number of distance education units to determine the incentive per distance education unit, except that the incentive per distance education unit shall not equal an amount greater than one thousand dollars; and

(ii) For fiscal years 2024-25 through 2028-29, the difference of the amount transferred pursuant to subdivision (2)(e) of section 79-3501 on the August 1 when the applications were due shall be divided by the number of distance education units to determine the incentive per distance education unit, except that the incentive per distance education unit shall not equal an amount greater than one thousand dollars; and

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

(4) If there are additional funds available for distribution after incentives calculated pursuant to subsections (1) through (3) of this section, school districts and educational service units may qualify for additional incentives for elementary distance education courses. Such incentives shall be calculated for sending and receiving school districts and educational service units as follows:

(a) The per-hour incentives shall equal the funds available for distribution after incentives calculated pursuant to subsections (1) through (3) of this section divided by the sum of the hours of elementary distance education courses sent or received for each school district and educational service unit submitting an application, except that the per-hour incentives shall not be greater than ten dollars; and

(b) The elementary distance education incentives for each school district and educational service unit shall equal the per-hour incentive multiplied by the hours of elementary distance education courses sent or received by the school district or educational service unit.

(5) The department may verify any or all application information using annual curriculum reports and may request such verification from the council.

(6) On or before October 1 of each year through calendar year 2028, a school district or educational service unit may appeal the denial of incentives for any course by the department to the State Board of Education. The board shall allow a representative of the school district or educational service unit an opportunity to present information concerning the appeal to the board at the November board meeting. If the board finds that the course meets the requirements of this section, the department shall pay the district from the Nebraska Education Improvement Fund as soon as practical in an amount for which the district or educational service unit should have qualified based on the incentive per distance education unit used in the original certification of incentives pursuant to this section.

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

**Source:** Laws 2006, LB 1208, § 23; Laws 2007, LB603, § 30; Laws 2008, LB988, § 53; Laws 2014, LB967, § 23; Laws 2015, LB519, § 25; Laws 2021, LB528, § 44; Laws 2023, LB705, § 94.

**ARTICLE 14**

**FEDERATION OF SCHOOL DISTRICTS**

- Section
- 79-1401. Repealed. Laws 1997, LB 347, § 59.
- 79-1402. Repealed. Laws 1997, LB 347, § 59.
- 79-1403. Repealed. Laws 1997, LB 347, § 59.
- 79-1404. Repealed. Laws 1997, LB 347, § 59.
- 79-1405. Repealed. Laws 1997, LB 347, § 59.
- 79-1406. Repealed. Laws 1997, LB 347, § 59.
- 79-1407. Repealed. Laws 1997, LB 347, § 59.
- 79-1408. Repealed. Laws 1997, LB 347, § 59.
- 79-1409. Repealed. Laws 1997, LB 347, § 59.
- 79-1410. Repealed. Laws 1997, LB 347, § 59.
- 79-1411. Repealed. Laws 1997, LB 347, § 59.
- 79-1412. Repealed. Laws 1997, LB 347, § 59.
- 79-1413. Repealed. Laws 1997, LB 347, § 59.
- 79-1414. Repealed. Laws 1997, LB 347, § 59.
- 79-1415. Repealed. Laws 1997, LB 347, § 59.
- 79-1416. Repealed. Laws 1997, LB 347, § 59.

**79-1401 Repealed. Laws 1997, LB 347, § 59.**

**79-1402 Repealed. Laws 1997, LB 347, § 59.**

**79-1403 Repealed. Laws 1997, LB 347, § 59.**

**79-1404 Repealed. Laws 1997, LB 347, § 59.**

**79-1405 Repealed. Laws 1997, LB 347, § 59.**

**79-1406 Repealed. Laws 1997, LB 347, § 59.**



**COMPACTS**

§ 79-1501

- 79-1407 Repealed. Laws 1997, LB 347, § 59.**
- 79-1408 Repealed. Laws 1997, LB 347, § 59.**
- 79-1409 Repealed. Laws 1997, LB 347, § 59.**
- 79-1410 Repealed. Laws 1997, LB 347, § 59.**
- 79-1411 Repealed. Laws 1997, LB 347, § 59.**
- 79-1412 Repealed. Laws 1997, LB 347, § 59.**
- 79-1413 Repealed. Laws 1997, LB 347, § 59.**
- 79-1414 Repealed. Laws 1997, LB 347, § 59.**
- 79-1415 Repealed. Laws 1997, LB 347, § 59.**
- 79-1416 Repealed. Laws 1997, LB 347, § 59.**

**ARTICLE 15  
COMPACTS**

(a) COMPACT FOR EDUCATION

Section

- 79-1501. Compact; contents.
- 79-1502. Repealed. Laws 2000, LB 1135, § 34.
- 79-1503. Education Commission of the States; bylaws; file.
- 79-1504. Education Commission of the States; members; selection.

(b) INTERSTATE TEACHER MOBILITY COMPACT

- 79-1505. Interstate Teacher Mobility Compact.

(a) COMPACT FOR EDUCATION

**79-1501 Compact; contents.**

The Compact for Education is hereby entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

**COMPACT FOR EDUCATION**

Article I. Purpose and Policy.

SECTION A. It is the purpose of this compact to:

1. Establish and maintain close cooperation and understanding among executive, legislative, professional educational and lay leadership on a nationwide basis at the State and local levels.
2. Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.
3. Provide a clearing house of information on matters relating to educational problems and how they are being met in different places throughout the Nation, so that the executive and legislative branches of State government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

4. Facilitate the improvement of State and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

SECTION B. It is the policy of this compact to encourage and promote local and State initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and States.

SECTION C. The party States recognize that each of them has an interest in the quality and quantity of education furnished in each of the other States, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the Nation, and because the products and services contributing to the health, welfare and economic advancement of each State are supplied in significant part by persons educated in other States.

#### Article II. State Defined.

As used in this Compact, "State" means a State, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

#### Article III. The Commission.

SECTION A. The Education Commission of the States, hereinafter called "the Commission," is hereby established. The Commission shall consist of seven members representing each party State. One of such members shall be the Governor; two shall be members of the State legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the Governor, unless the laws of the State otherwise provide. If the laws of a State prevent legislators from serving on the Commission, six members shall be appointed and serve at the pleasure of the Governor, unless the laws of the State otherwise provide. In addition to any other principles or requirements which a State may establish for the appointment and service of its members of the Commission, the guiding principle for the composition of the membership on the Commission from each party State shall be that the members representing such State shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the State Government, higher education, the State education system, local education, lay and professional, public and nonpublic educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the Governor, having responsibility for one or more programs of public education. In addition to the members of the Commission representing the party States, there may be not to exceed ten nonvoting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

SECTION B. The members of the Commission shall be entitled to one vote each on the Commission. No action of the Commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the Commission are cast in favor thereof. Action of the Commission shall be only at a meeting at which a majority of the Commissioners are present. The Commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the Commission may delegate the exercise of any of its powers to the steering committee or the Executive

Director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III (j).

SECTION C. The Commission shall have a seal.

SECTION D. The Commission shall elect annually, from among its members, a chairman, who shall be a Governor, a vice chairman and a treasurer. The Commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the Commission, and together with the treasurer and such other personnel as the Commission may deem appropriate shall be bonded in such amount as the Commission shall determine. The executive director shall be secretary.

SECTION E. Irrespective of the civil service, personnel or other merit system laws of any of the party States, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Commission, and shall fix the duties and compensation of such personnel. The Commission in its bylaws shall provide for the personnel policies and programs of the Commission.

SECTION F. The Commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

SECTION G. The Commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any State, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this Article shall be reported in the annual report of the Commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

SECTION H. The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

SECTION I. The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the Party States.

SECTION J. The Commission annually shall make to the Governor and legislature of each party State a report covering the activities of the Commission for the preceding year. The Commission may make such additional reports as it may deem desirable.

#### Article IV. Powers.

In addition to authority conferred on the commission by other provisions of the compact, the Commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources.

2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.

3. Develop proposals for adequate financing of education as a whole and at each of its many levels.

4. Conduct or participate in research of the types referred to in this Article in any instance where the Commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.

5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.

6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

#### Article V. Cooperation With Federal Government.

SECTION A. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the Federal Government, the United States may be represented on the Commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to Federal law, and may be drawn from any one or more branches of the Federal Government, but no such representatives shall have a vote on the Commission.

SECTION B. The Commission may provide information and make recommendations to any executive or legislative agency or officer of the Federal Government concerning the common educational policies of the States, and may advise with any such agencies or officers concerning any matter of mutual interest.

#### Article VI. Committees.

SECTION A. To assist in the expeditious conduct of its business when the full Commission is not meeting, the Commission shall elect a steering committee of thirty-two members which, subject to the provisions of this compact and consistent with the policies of the Commission, shall be constituted and function as provided in the bylaws of the Commission. One-fourth of the voting membership of the steering committee shall consist of Governors, one-fourth shall consist of Legislators, and the remainder shall consist of other members of the Commission. A Federal representative on the Commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the Commission shall be elected as follows: sixteen for one year and sixteen for two years. The chairman, vice chairman, and treasurer of the Commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the Commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the

unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two term limitation.

SECTION B. The Commission may establish advisory and technical committees composed of State, local, and Federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the States concerned, be established to consider any matter of special concern to two or more of the party States.

SECTION C. The Commission may establish such additional committees as its bylaws may provide.

#### Article VII. Finance.

SECTION A. The Commission shall advise the Governor or designated officer or officers of each party State of its budget and estimated expenditures for such period as may be required by the laws of that party State. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party States.

SECTION B. The total amount of appropriation requests under any budget shall be apportioned among the party States. In making such apportionment, the Commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party States.

SECTION C. The Commission shall not pledge the credit of any party States. The Commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III (g) of this compact, provided that the Commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it pursuant to Article III (g) thereof, the Commission shall not incur any obligation prior to the allotment of funds by the party States adequate to meet the same.

SECTION D. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the Commission.

SECTION E. The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party States and by any persons authorized by the Commission.

SECTION F. Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

#### Article VIII. Eligible Parties; Entry Into and Withdrawal.

SECTION A. This compact shall have as eligible parties all States, Territories, and Possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a Governor, the term "Governor," as used in this compact, shall mean the closest equivalent official of such jurisdiction.

SECTION B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same: Provided that in order to enter into initial effect, adoption by at least ten eligible party jurisdictions shall be required.

SECTION C. Adoption of the compact may be either by enactment thereof or by adherence thereto by the Governor; provided that in the absence of enactment, adherence by the Governor shall be sufficient to make his State a party only until December 31, 1967. During any period when a State is participating in this compact through gubernatorial action, the Governor shall appoint those persons who, in addition to himself, shall serve as the members of the Commission from his State, and shall provide to the Commission an equitable share of the financial support of the Commission from any source available to him.

SECTION D. Except for a withdrawal effective on December 31, 1967 in accordance with paragraph C of this Article, any party State may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing State has given notice in writing of the withdrawal to the Governors of all other party States. No withdrawal shall affect any liability already incurred by or chargeable to a party State prior to the time of such withdrawal.

Article IX. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any State or of the United States, or the application thereof to any Government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any Government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating therein, the compact shall remain in full force and effect as to the State affected as to all severable matters.

**Source:** Laws 1967, c. 516, § 1, p. 1728; R.S.1943, (1994), § 79-2501; Laws 1996, LB 900, § 1000.

**79-1502 Repealed. Laws 2000, LB 1135, § 34.**

**79-1503 Education Commission of the States; bylaws; file.**

Pursuant to Article III (i) of the Compact for Education, the Education Commission of the States shall file a copy of its bylaws and any amendment thereto with the Governor.

**Source:** Laws 1967, c. 516, § 3, p. 1737; R.S.1943, (1994), § 79-2503; Laws 1996, LB 900, § 1002.

**79-1504 Education Commission of the States; members; selection.**

The provisions of Article III, SECTION A., of the Compact for Education notwithstanding, the members of the Education Commission of the States representing this state shall consist of the Governor, three members of the Legislature selected by the Executive Board of the Legislative Council, and three members appointed by the Governor. Of the three members appointed by

the Governor, one member shall be a member of a school board or an appointed representative of a state association of school boards.

**Source:** Laws 1967, c. 516, § 4, p. 1737; Laws 1987, LB 199, § 1; R.S.1943, (1994), § 79-2504; Laws 1996, LB 900, § 1003; Laws 2018, LB377, § 84.

(b) INTERSTATE TEACHER MOBILITY COMPACT

**79-1505 Interstate Teacher Mobility Compact.**

INTERSTATE TEACHER MOBILITY COMPACT

ARTICLE I- PURPOSE

The purpose of this Compact is to facilitate the mobility of Teachers across the Member States, with the goal of supporting Teachers through a new pathway to licensure. Through this Compact, the Member States seek to establish a collective regulatory framework that expedites and enhances the ability of Teachers to move across State lines.

This Compact is intended to achieve the following objectives and should be interpreted accordingly. The Member States hereby ratify the same intentions by subscribing hereto.

- A. Create a streamlined pathway to licensure mobility for Teachers;
- B. Support the relocation of Eligible Military Spouses;
- C. Facilitate and enhance the exchange of licensure, investigative, and disciplinary information between the Member States;
- D. Enhance the power of State and district level education officials to hire qualified, competent Teachers by removing barriers to the employment of out-of-state Teachers;
- E. Support the retention of Teachers in the profession by removing barriers to relicensure in a new State; and
- F. Maintain State sovereignty in the regulation of the teaching profession.

ARTICLE II- DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall govern the terms herein:

- A. "Active Military Member" - means any person with full-time duty status in the uniformed service of the United States, including members of the National Guard and Reserve.
- B. "Adverse Action" - means any limitation or restriction imposed by a Member State's Licensing Authority, such as revocation, suspension, reprimand, probation, or limitation on the licensee's ability to work as a Teacher.
- C. "Bylaws" - means those bylaws established by the Commission.
- D. "Career and Technical Education License" - means a current, valid authorization issued by a Member State's Licensing Authority allowing an individual to serve as a Teacher in P-12 public educational settings in a specific career and technical education area.
- E. "Charter Member States" - means a Member State that has enacted legislation to adopt this Compact where such legislation predates the initial meeting of the Commission after the effective date of the Compact.

F. "Commission" - means the interstate administrative body which membership consists of delegates of all States that have enacted this Compact, and which is known as the Interstate Teacher Mobility Compact Commission.

G. "Commissioner" - means the delegate of a Member State.

H. "Eligible License" - means a license to engage in the teaching profession which requires at least a bachelor's degree and the completion of a state approved program for Teacher licensure.

I. "Eligible Military Spouse" - means the spouse of any individual in full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty, moving as a result of a military mission or military career progression requirements or on their terminal move as a result of separation or retirement (to include surviving spouses of deceased military members).

J. "Executive Committee" - means a group of Commissioners elected or appointed to act on behalf of, and within the powers granted to them by, the Commission as provided for herein.

K. "Licensing Authority" - means an official, agency, board, or other entity of a State that is responsible for the licensing and regulation of Teachers authorized to teach in P-12 public educational settings.

L. "Member State" - means any State that has adopted this Compact, including all agencies and officials of such a State.

M. "Receiving State" - means any State where a Teacher has applied for licensure under this Compact.

N. "Rule" - means any regulation promulgated by the Commission under this Compact, which shall have the force of law in each Member State.

O. "State" - means a state, territory, or possession of the United States and the District of Columbia.

P. "State Practice Laws" - means a Member State's laws, rules, and regulations that govern the teaching profession, define the scope of such profession, and create the methods and grounds for imposing discipline.

Q. "State Specific Requirements" - means a requirement for licensure covered in coursework or examination that includes content of unique interest to the State.

R. "Teacher" - means an individual who currently holds an authorization from a Member State that forms the basis for employment in the P-12 public schools of the State to provide instruction in a specific subject area, grade level, or student population.

S. "Unencumbered License" - means a current, valid authorization issued by a Member State's Licensing Authority allowing an individual to serve as a Teacher in P-12 public educational settings. An Unencumbered License is not a restricted, probationary, provisional, substitute, or temporary credential.

#### ARTICLE III- LICENSURE UNDER THE COMPACT

A. Licensure under this Compact pertains only to the initial grant of a license by the Receiving State. Nothing herein applies to any subsequent or ongoing compliance requirements that a Receiving State might require for Teachers.

B. Each Member State shall, in accordance with the Rules of the Commission, define, compile, and update as necessary, a list of Eligible Licenses and Career and Technical Education Licenses that the Member State is willing to



consider for equivalency under this Compact and provide the list to the Commission. The list shall include those licenses that a Receiving State is willing to grant to Teachers from other Member States, pending a determination of equivalency by the Receiving State’s Licensing Authority.

C. Upon the receipt of an application for licensure by a Teacher holding an Unencumbered Eligible License, the Receiving State shall determine which of the Receiving State’s Eligible Licenses the Teacher is qualified to hold and shall grant such a license or licenses to the applicant. Such a determination shall be made in the sole discretion of the Receiving State’s Licensing Authority and may include a determination that the applicant is not eligible for any of the Receiving State’s Eligible Licenses. For all Teachers who hold an Unencumbered License, the Receiving State shall grant one or more Unencumbered License(s) that, in the Receiving State’s sole discretion, are equivalent to the license(s) held by the Teacher in any other Member State.

D. For Active Military Members and Eligible Military Spouses who hold a license that is not Unencumbered, the Receiving State shall grant an equivalent license or licenses that, in the Receiving State’s sole discretion, is equivalent to the license or licenses held by the Teacher in any other Member State, except where the Receiving State does not have an equivalent license.

E. For a Teacher holding an Unencumbered Career and Technical Education License, the Receiving State shall grant an Unencumbered License equivalent to the Career and Technical Education License held by the applying Teacher and issued by another Member State, as determined by the Receiving State in its sole discretion, except where a Career and Technical Education Teacher does not hold a bachelor’s degree and the Receiving State requires a bachelor’s degree for licenses to teach Career and Technical Education. A Receiving State may require Career and Technical Education Teachers to meet State industry recognized requirements, if required by law in the Receiving State.

ARTICLE IV- LICENSURE NOT UNDER THE COMPACT

A. Except as provided in Article III above, nothing in this Compact shall be construed to limit or inhibit the power of a Member State to regulate licensure or endorsements overseen by the Member State’s Licensing Authority.

B. When a Teacher is required to renew a license received pursuant to this Compact, the State granting such a license may require the Teacher to complete State Specific Requirements as a condition of licensure renewal or advancement in that State.

C. For the purposes of determining compensation, a Receiving State may require additional information from Teachers receiving a license under the provisions of this Compact.

D. Nothing in this Compact shall be construed to limit the power of a Member State to control and maintain ownership of its information pertaining to Teachers, or limit the application of a Member State’s laws or regulations governing the ownership, use, or dissemination of information pertaining to Teachers.

E. Nothing in this Compact shall be construed to invalidate or alter any existing agreement or other cooperative arrangement which a Member State may already be a party to, or limit the ability of a Member State to participate in any future agreement or other cooperative arrangement to:

1. Award teaching licenses or other benefits based on additional professional credentials, including, but not limited to, National Board Certification;
2. Participate in the exchange of names of Teachers whose licenses have been subject to an Adverse Action by a Member State; or
3. Participate in any agreement or cooperative arrangement with a non-Member State.

**ARTICLE V- TEACHER QUALIFICATIONS AND REQUIREMENTS  
FOR LICENSURE UNDER THE COMPACT**

A. Except as provided for Active Military Members or Eligible Military Spouses in Article III.D above, a Teacher may only be eligible to receive a license under this Compact where that Teacher holds an Unencumbered License in a Member State.

B. A Teacher eligible to receive a license under this Compact shall, unless otherwise provided for herein:

1. Upon their application to receive a license under this Compact, undergo a criminal background check in the Receiving State in accordance with the laws and regulations of the Receiving State; and
2. Provide the Receiving State with information in addition to the information required for licensure for the purposes of determining compensation, if applicable.

**ARTICLE VI- DISCIPLINE / ADVERSE ACTIONS**

A. Nothing in this Compact shall be deemed or construed to limit the authority of a Member State to investigate or impose disciplinary measures on Teachers according to the State Practice Laws thereof.

B. Member States shall be authorized to receive, and shall provide, files and information regarding the investigation and discipline, if any, of Teachers in other Member States upon request. Any Member State receiving such information or files shall protect and maintain the security and confidentiality thereof, in at least the same manner that it maintains its own investigatory or disciplinary files and information. Prior to disclosing any disciplinary or investigatory information received from another Member State, the disclosing state shall communicate its intention and purpose for such disclosure to the Member State which originally provided that information.

**ARTICLE VII- ESTABLISHMENT OF THE INTERSTATE TEACHER  
MOBILITY COMPACT COMMISSION**

A. The interstate compact Member States hereby create and establish a joint public agency known as the Interstate Teacher Mobility Compact Commission:

1. The Commission is a joint interstate governmental agency comprised of States that have enacted the Interstate Teacher Mobility Compact.
2. Nothing in this interstate compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each Member State shall have and be limited to one (1) delegate to the Commission, who shall be given the title of Commissioner.
2. The Commissioner shall be the primary administrative officer of the State Licensing Authority or their designee.

3. Any Commissioner may be removed or suspended from office as provided by the law of the state from which the Commissioner is appointed.

4. The Member State shall fill any vacancy occurring in the Commission within ninety (90) days.

5. Each Commissioner shall be entitled to one (1) vote about the promulgation of Rules and creation of Bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A Commissioner shall vote in person or by such other means as provided in the Bylaws. The Bylaws may provide for Commissioners' participation in meetings by telephone or other means of communication.

6. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the Bylaws.

7. The Commission shall establish by Rule a term of office for Commissioners.

C. The Commission shall have the following powers and duties:

1. Establish a Code of Ethics for the Commission.

2. Establish the fiscal year of the Commission.

3. Establish Bylaws for the Commission.

4. Maintain its financial records in accordance with the Bylaws of the Commission.

5. Meet and take such actions as are consistent with the provisions of this interstate compact, the Bylaws, and Rules of the Commission.

6. Promulgate uniform Rules to implement and administer this interstate compact. The Rules shall have the force and effect of law and shall be binding in all Member States. In the event the Commission exercises its Rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect of law.

7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any Member State Licensing Authority to sue or be sued under applicable law shall not be affected.

8. Purchase and maintain insurance and bonds.

9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State, or an associated non-governmental organization that is open to membership by all states.

10. Hire employees, elect, or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.

11. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use, any property, real, personal or mixed, provided that at all times the Commission shall avoid any appearance of impropriety.

12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed.

13. Establish a budget and make expenditures.

14. Borrow money.

15. Appoint committees, including standing committees composed of members and such other interested persons as may be designated in this interstate compact, Rules, or Bylaws.

16. Provide and receive information from, and cooperate with, law enforcement agencies.

17. Establish and elect an Executive Committee.

18. Establish and develop a charter for an Executive Information Governance Committee to advise on facilitating exchange of information, use of information, data privacy, and technical support needs, and provide reports as needed.

19. Perform such other functions as may be necessary or appropriate to achieve the purposes of this interstate compact consistent with the State regulation of Teacher licensure.

20. Determine whether a State's adopted language is materially different from the model compact language such that the State would not qualify for participation in the Compact.

D. The Executive Committee of the Interstate Teacher Mobility Compact Commission

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this interstate compact.

2. The Executive Committee shall be composed of eight voting members:

a. The Commission chair, vice chair, and treasurer; and

b. Five members who are elected by the Commission from the current membership:

i. Four voting members representing geographic regions in accordance with Commission Rules; and

ii. One at large voting member in accordance with Commission Rules.

3. The Commission may add or remove members of the Executive Committee as provided in Commission Rules.

4. The Executive Committee shall meet at least once annually.

5. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the Rules or Bylaws, changes to the compact legislation, fees paid by interstate compact Member States such as annual dues, and any compact fee charged by the Member States on behalf of the Commission.

b. Ensure Commission administration services are appropriately provided, contractual or otherwise.

c. Prepare and recommend the budget.

d. Maintain financial records on behalf of the Commission.

e. Monitor compliance of Member States and provide reports to the Commission.

f. Perform other duties as provided in Rules or Bylaws.

6. Meetings of the Commission

a. All meetings shall be open to the public, and public notice of meetings shall be given in accordance with Commission Bylaws.

b. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

- i. Non-compliance of a Member State with its obligations under the compact.
- ii. The employment, compensation, discipline, or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures.
- iii. Current, threatened, or reasonably anticipated litigation.
- iv. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate.
- v. Accusing any person of a crime or formally censuring any person.
- vi. Disclosure of trade secrets or commercial or financial information that is privileged or confidential.
- vii. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.
- viii. Disclosure of investigative records compiled for law enforcement purposes.
- ix. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact.
- x. Matters specifically exempted from disclosure by federal or Member State statute.
- xi. Others matters as set forth by Commission Bylaws and Rules.

c. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

d. The Commission shall keep minutes of Commission meetings and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

#### 7. Financing of the Commission

a. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

b. The Commission may accept all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same, provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest.

c. The Commission may levy on and collect an annual assessment from each Member State or impose fees on other parties to cover the cost of the operations and activities of the Commission, in accordance with the Commission Rules.

d. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the

credit of any of the Member States, except by and with the authority of the Member State.

e. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to accounting procedures established under Commission Bylaws. All receipts and disbursements of funds of the Commission shall be reviewed annually in accordance with Commission Bylaws, and a report of the review shall be included in and become part of the annual report of the Commission.

#### 8. Qualified Immunity, Defense, and Indemnification

a. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

b. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

c. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

#### ARTICLE VIII- RULEMAKING

A. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this interstate compact and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each Rule or amendment.

B. The Commission shall promulgate reasonable Rules to achieve the intent and purpose of this interstate compact. In the event the Commission exercises its Rulemaking authority in a manner that is beyond purpose and intent of this interstate compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect of law in the Member States.

C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.

D. Rules or amendments to the Rules shall be adopted or ratified at a regular or special meeting of the Commission in accordance with Commission Rules and Bylaws.

E. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule with forty-eight (48) hours' notice, with opportunity to comment, provided that the usual Rulemaking procedures shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or Member State funds;
3. Meet a deadline for the promulgation of an administrative Rule that is established by federal law or Rule; or
4. Protect public health and safety.

ARTICLE IX- FACILITATING INFORMATION EXCHANGE

A. The Commission shall provide for facilitating the exchange of information to administer and implement the provisions of this compact in accordance with the Rules of the Commission, consistent with generally accepted data protection principles.

B. Nothing in this compact shall be deemed or construed to alter, limit, or inhibit the power of a Member State to control and maintain ownership of its licensee information or alter, limit, or inhibit the laws or regulations governing licensee information in the Member State.

ARTICLE X- OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact shall have standing as statutory law.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter.

3. All courts and all administrative agencies shall take judicial notice of the Compact, the Rules of the Commission, and any information provided to a Member State pursuant thereto in any judicial or quasi-judicial proceeding in a Member State pertaining to the subject matter of this Compact, or which may affect the powers, responsibilities, or actions of the Commission.

4. The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact and

shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission service of process shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

**B. Default, Technical Assistance, and Termination**

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall:

a. Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default, or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

C. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Commissioners of the Member States, and all rights, privileges, and benefits conferred on that State by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

D. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, the State Licensing Authority, and each of the Member States.

E. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

F. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

G. The defaulting State may appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

**H. Dispute Resolution**

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between Member and non-Member States.

2. The Commission shall promulgate a Rule providing for both binding and non-binding alternative dispute resolution for disputes as appropriate.

**I. Enforcement**

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a Member State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and Bylaws. The relief sought may include both injunctive relief and



damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

#### ARTICLE XI- EFFECTUATION, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth Member State.

1. On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the Charter Member States to determine if the statute enacted by each such Charter Member State is materially different from the model Compact statute.

2. A Charter Member State whose enactment is found to be materially different from the model Compact statute shall be entitled to the default process set forth in Article X.

3. Member States enacting the Compact subsequent to the Charter Member States shall be subject to the process set forth in Article VII.C.20 to determine if their enactments are materially different from the model Compact statute and whether they qualify for participation in the Compact.

B. If any Member State is later found to be in default, or is terminated or withdraws from the Compact, the Commission shall remain in existence and the Compact shall remain in effect even if the number of Member States should be less than ten.

C. Any State that joins the Compact after the Commission's initial adoption of the Rules and Bylaws shall be subject to the Rules and Bylaws as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State, as the Rules and Bylaws may be amended as provided in this Compact.

D. Any Member State may withdraw from this Compact by enacting a statute repealing the same.

1. A Member State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Licensing Authority to comply with the investigative and Adverse Action reporting requirements of this Compact prior to the effective date of withdrawal.

E. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

#### ARTICLE XII- CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any Member State or a State seeking membership in the compact, or of the United States or the applicability thereof to any other government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government,

agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

#### ARTICLE XIII- CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

A. Nothing herein shall prevent or inhibit the enforcement of any other law of a Member State that is not inconsistent with the Compact.

B. Any laws, statutes, regulations, or other legal requirements in a Member State in conflict with the Compact are superseded to the extent of the conflict.

C. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

**Source:** Laws 2023, LB298, § 4.

### ARTICLE 16

#### PRIVATE, DENOMINATIONAL, OR PAROCHIAL SCHOOLS

##### Cross References

##### Constitutional provisions:

English as official state language, see Article I, section 27, Constitution of Nebraska.

**State day**, observance in private schools, see section 84-107.

**Textbook loan program**, see section 79-734.

**Transportation of students by public school transportation facilities**, see section 79-601.

**Water furnished free by cities of metropolitan class**, see section 14-2127.

##### Section

- 79-1601. Private, denominational, or parochial schools, teachers, and other individuals; laws applicable; election not to meet accreditation or approval requirements.
- 79-1602. Providing false information; penalty.
- 79-1603. Private, denominational, or parochial schools; religious instruction; sections, how construed.
- 79-1604. Private, denominational, or parochial schools; management and control.
- 79-1605. Private, denominational, or parochial schools; inspection by public school official; when required; applicability.
- 79-1606. Private, denominational, or parochial schools; nonconformity with school law; penalty.
- 79-1607. Violations; penalty.
- 79-1608. Education scholarship; legislative findings; State Treasurer; powers and duties.

#### **79-1601 Private, denominational, or parochial schools, teachers, and other individuals; laws applicable; election not to meet accreditation or approval requirements.**

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

(2) All private, denominational, or parochial schools shall either comply with the accreditation or approval requirements as prescribed pursuant to section

79-318 or, for those schools which elect not to meet accreditation or approval requirements, the requirements prescribed in subsections (2) through (6) of this section. Standards and procedures for approval and accreditation shall be based upon the program of studies, guidance services, the number and preparation of teachers in relation to the curriculum and enrollment, instructional materials and equipment, science facilities and equipment, library facilities and materials, and health and safety factors in buildings and grounds. Rules and regulations governing procedures for private, denominational, and parochial schools which elect, pursuant to the procedures prescribed in subsections (2) through (6) of this section, not to meet state accreditation or approval requirements shall be based upon an assurance that such schools offer a program of instruction leading to the acquisition of basic skills in the language arts, mathematics, science, social studies, and health. The assurance required pursuant to this subsection shall be satisfied by a signed statement by the parent, legal guardian, or educational decisionmaker of a student that the education provided complies with subsections (2) through (6) of this section. Rules and regulations which govern procedures under this section are limited to procedures for receiving information from a parent, legal guardian, or educational decisionmaker of a student or a parent representative when such individual files the election not to meet accreditation or approval requirements under this section.

(3) The provisions of subsections (3) through (6) of this section shall apply to any private, denominational, or parochial school in the State of Nebraska which elects not to meet state accreditation or approval requirements. An election pursuant to such subsections shall be effective when a statement is received by the Commissioner of Education signed by a parent, legal guardian, or educational decisionmaker of each student attending such private, denominational, or parochial school, stating that (a) either specifically (i) the requirements for approval and accreditation required by law and the rules and regulations adopted and promulgated by the State Board of Education violate sincerely held religious beliefs of the parent, legal guardian, or educational decisionmaker or (ii) the requirements for approval and accreditation required by law and the rules and regulations adopted and promulgated by the State Board of Education interfere with the decisions of the parent, legal guardian, or educational decisionmaker in directing the student's education, (b) an authorized representative of such parent, legal guardian, or educational decisionmaker will annually submit to the Commissioner of Education an assurance that the requirements of subdivisions (4)(a) through (c) of this section are and will continue to be satisfied, (c) the school offers the courses of instruction required by subsections (2), (3), and (4) of this section, and (d) the parent, legal guardian, or educational decisionmaker is satisfied that individuals monitoring instruction at such school are qualified to monitor instruction in the basic skills as required by subsections (2), (3), and (4) of this section.

(4) Each such private, denominational, or parochial school shall (a) meet minimum requirements relating to health, fire, and safety standards prescribed by state law and the rules and regulations of the State Fire Marshal, (b) report attendance pursuant to section 79-201, (c) maintain a sequential program of instruction designed to lead to basic skills in the language arts, mathematics, science, social studies, and health, and (d) comply with the immunization requirements in section 79-217 if the statement signed by the parent, legal guardian, or educational decisionmaker indicates a nonreligious reason pursu-

ant to subdivision (3)(a)(ii) of this section for the student attending a private, denominational, or parochial school which elects not to meet state accreditation or approval requirements. The State Board of Education shall establish procedures for receiving information and reports required by subsections (3) through (6) of this section from authorized parent representatives who may act as agents for the parent, legal guardian, or educational decisionmaker of a student attending such schools.

(5) Individuals employed or utilized by schools which elect not to meet state accreditation or approval requirements shall not be required to meet the certification requirements prescribed in sections 79-801 to 79-815.

(6) Any school which elects not to meet state accreditation or approval requirements and does not meet the requirements of subsections (2) through (6) of this section shall not be deemed a school, and the parent, legal guardian, or educational decisionmaker of any students attending such school shall be subject to prosecution pursuant to section 79-201 or any statutes relating to habitual truancy.

(7) For purposes of this section, educational decisionmaker means a person designated or ordered by a court to make educational decisions on behalf of a child.

**Source:** Laws 1919, c. 155, § 1, p. 346; Laws 1921, c. 53, § 1(h), p. 230; C.S.1922, § 6508f; C.S.1929, § 79-1906; R.S.1943, § 79-1913; Laws 1949, c. 256, § 506, p. 864; Laws 1984, LB 928, § 3; R.S.1943, (1994), § 79-1701; Laws 1996, LB 900, § 1004; Laws 1999, LB 268, § 1; Laws 1999, LB 813, § 55; Laws 2003, LB 685, § 25; Laws 2009, LB549, § 49; Laws 2024, LB1027, § 1.  
Effective date July 19, 2024.

#### Cross References

**Admission to public college or university**, see section 85-607.

**Identification of students**, home school duties, see section 43-2007.

**Religious beliefs**, conflict with required immunizations, see section 79-221.

**Sales and use tax exemption**, see section 77-2704.12.

**Student transfer**, access to student files or records, see section 79-2,105.

This section does not set out a deadline for an exempt school to begin operations. *State v. Thacker*, 286 Neb. 16, 834 N.W.2d 597 (2013).

Requirement of minimal school standards did not infringe upon constitutional rights of parents of school children. *Meyer-korth v. State*, 173 Neb. 889, 115 N.W.2d 585 (1962).

### 79-1602 Providing false information; penalty.

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

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

**Source:** Laws 1984, LB 928, § 4; R.S.1943, (1994), § 79-1701.01; Laws 1996, LB 900, § 1005; Laws 1999, LB 813, § 56.

### 79-1603 Private, denominational, or parochial schools; religious instruction; sections, how construed.

Nothing contained in sections 79-1601 to 79-1607 shall be so construed as to interfere with religious instruction in any private, denominational, or parochial school.

**Source:** Laws 1919, c. 155, § 3, p. 349; Laws 1921, c. 53, § 1(j), p. 230; C.S.1922, § 6508h; C.S.1929, § 79-1908; R.S.1943, § 79-1915; Laws 1949, c. 256, § 508, p. 864; R.S.1943, (1994), § 79-1703; Laws 1996, LB 900, § 1006.

**79-1604 Private, denominational, or parochial schools; management and control.**

For the purposes of sections 79-1601 to 79-1607, the owner or governing board of any private, denominational, or parochial school shall have authority to select and purchase textbooks, equipment, and supplies, to employ teachers, and to have and exercise the general management of the school, subject to the provisions of such sections.

**Source:** Laws 1919, c. 155, § 4, p. 349; Laws 1921, c. 53, § 1(k), p. 230; C.S.1922, § 6508i; C.S.1929, § 79-1909; R.S.1943, § 79-1916; Laws 1949, c. 256, § 509, p. 864; R.S.1943, (1994), § 79-1704; Laws 1996, LB 900, § 1007.

**Cross References**

Textbook loan program, see section 79-734.

**79-1605 Private, denominational, or parochial schools; inspection by public school official; when required; applicability.**

(1) The superintendent of the school district in which any private, denominational, or parochial school is located shall inspect such schools and report to the proper officers any evidence of failure to observe any of the provisions of sections 79-1601 to 79-1607. The Commissioner of Education, when in his or her judgment it is deemed advisable, may appoint a public school official other than such superintendent, including a member of the State Department of Education, for such inspections. Such appointee shall hold a Nebraska certificate to administer. The State Board of Education shall require the superintendents and appointed public school officials to make such inspections at least twice a year, and the school officers of such schools and the teachers giving instruction in such schools shall permit such inspection and assist and cooperate in the making of the same.

(2) This section does not apply to (a) any private, denominational, or parochial school which elects not to meet accreditation or approval requirements pursuant to the procedures prescribed in subsections (2) through (6) of section 79-1601 or (b) a school inspected by an area or diocesan representative holding a Nebraska certificate to administer.

**Source:** Laws 1919, c. 155, § 6, p. 349; Laws 1921, c. 53, § 1(m), p. 231; C.S.1922, § 6508k; C.S.1929, § 79-1911; R.S.1943, § 79-1918; Laws 1949, c. 256, § 510, p. 865; Laws 1971, LB 254, § 1; Laws 1973, LB 395, § 1; Laws 1978, LB 441, § 1; R.S.1943, (1994), § 79-1705; Laws 1996, LB 900, § 1008; Laws 1999, LB 272, § 114; Laws 2003, LB 685, § 26; Laws 2021, LB528, § 45; Laws 2024, LB1027, § 2.  
Effective date July 19, 2024.

This section did not violate constitutional provision respecting freedom of religion. *Meyerkorth v. State*, 173 Neb. 889, 115 N.W.2d 585 (1962).

**79-1606 Private, denominational, or parochial schools; nonconformity with school law; penalty.**

In case any private, denominational, or parochial school, after a final determination by the proper authorities under sections 79-1601 to 79-1607, fails, refuses, or neglects to conform to and comply with such sections, no person shall be granted or allowed a certificate to teach in such school and the students attending such school shall be required to attend the public school of the proper district as provided by law in like manner as though there were no such private, denominational, or parochial school. Full credit for certification under the law shall be given all teachers who have taught in private, denominational, or parochial schools the same as though they had taught in public schools.

**Source:** Laws 1919, c. 155, § 7, p. 349; Laws 1921, c. 53, § 1(n), p. 231; C.S.1922, § 6508l; C.S.1929, § 79-1912; R.S.1943, § 79-1919; Laws 1949, c. 256, § 511, p. 865; R.S.1943, (1994), § 79-1706; Laws 1996, LB 900, § 1009; Laws 2009, LB549, § 50.

This section did not violate constitutional provision respecting freedom of religion. *Meyerkorth v. State*, 173 Neb. 889, 115 N.W.2d 585 (1962).

**79-1607 Violations; penalty.**

Any person violating any of the provisions of sections 79-1601 to 79-1606 shall be guilty of a Class III misdemeanor.

**Source:** Laws 1919, c. 155, § 8, p. 350; Laws 1921, c. 53, § 1(o), p. 231; C.S.1922, § 6508m; C.S.1929, § 79-1913; R.S.1943, § 79-1920; Laws 1949, c. 256, § 512, p. 865; Laws 1977, LB 39, § 261; R.S.1943, (1994), § 79-1707; Laws 1996, LB 900, § 1010.

The fact that conduct is subject to the criminal penalties under these sections does not proscribe granting of injunctive relief. *State ex rel. Douglas v. Bigelow*, 214 Neb. 464, 334 N.W.2d 444 (1983).

ation and operation of private, denominational, and parochial schools does not foreclose the possibility of injunctive relief. *State ex rel. Douglas v. Faith Baptist Church of Louisville*, 207 Neb. 802, 301 N.W.2d 571 (1981).

The provision for penal sanctions in the event of violations of the various statutory provisions relating to compulsory edu-

**79-1608 Education scholarship; legislative findings; State Treasurer; powers and duties.**

(1) The Legislature finds that:

(a) Funds appropriated for the education of students in kindergarten through twelfth grade are for a fundamental public purpose of state government and constitute an ordinary expense of state government;

(b) Enabling the greatest number of parents and legal guardians to choose among quality educational opportunities for children will improve the quality of education available to all children;

(c) Privately operated elementary and secondary schools in Nebraska satisfy the state's requirements for legal operation and provide quality educational opportunities for children;

(d) Parents and legal guardians of limited means are less able to choose among quality educational opportunities for their children; and

(e) Making it possible for more parents and legal guardians to be able to choose privately operated schools benefits Nebraska parents and taxpayers.

(2) For purposes of this section:

(a) Education scholarship means a financial grant-in-aid to be used to pay all or part of the cost to educate an eligible student attending a qualified school;

(b) Eligible student means a resident of Nebraska who:

(i) Is receiving an education scholarship for the first time and is (A) entering kindergarten or ninth grade in a qualified school or the first grade level offered by the qualified school, (B) transferring from a public school at which the student was enrolled for at least one semester immediately preceding the first semester for which the student receives an education scholarship to a qualified school and is entering any of grades kindergarten through twelve, or (C) a member of an active duty or reserve military family transferring into Nebraska from another state or another country and is entering any of grades kindergarten through twelve in a qualified school;

(ii) Has previously received an education scholarship under this section and is continuing education at a qualified school until such student graduates from high school or reaches twenty-one years of age, whichever comes first;

(iii) Has previously received an education scholarship under the Opportunity Scholarships Act, as such act existed prior to its repeal by Laws 2024, LB1402, and is continuing education at a qualified school until such student graduates from high school or reaches twenty-one years of age, whichever comes first;

(iv) Is the sibling of a student who is receiving an education scholarship and resides in the same household as such student; or

(v) Is currently enrolled in a qualified school and is a member of a family whose household income is no more than two hundred thirteen percent of the federal poverty level; and

(c) Qualified school means any nongovernmental, privately operated elementary or secondary school located in this state that (i) is operated not for profit, (ii) complies with the antidiscrimination provisions of 42 U.S.C. 1981, as such section existed on January 1, 2024, (iii) complies with all health and life safety laws or codes that apply to privately operated schools, and (iv) fulfills the applicable accreditation or approval requirements established by the State Board of Education pursuant to section 79-318.

(3) The State Treasurer shall establish a program to provide education scholarships to eligible students to pay the costs associated with attending a qualified school. Under such program, the State Treasurer shall:

(a) Establish a priority system for awarding education scholarships under the program. Such priority system shall:

(i) Give first priority to:

(A) Eligible students who received an education scholarship under this section or under the Opportunity Scholarships Act, as such act existed prior to its repeal by Laws 2024, LB1402, during the previous school year; and

(B) The sibling of a student who is receiving an education scholarship, so long as the sibling resides in the same household as such student;

(ii) Give second priority to:

(A) Eligible students whose household income levels do not exceed one hundred eighty-five percent of the federal poverty level;

(B) Eligible students whose application for the enrollment option program established in section 79-234 has been denied;

(C) Eligible students who have an individualized education program;

(D) Eligible students who are experiencing bullying, harassment, hazing, assault, battery, kidnapping, robbery, sexual offenses, threat or intimidation, or fighting at school;

(E) Eligible students who are in foster care; and

(F) Eligible students who are in a family with a parent or guardian in an active duty role in a branch of the armed forces of the United States or in the National Guard, or whose parent or guardian was killed serving in the line of duty;

(iii) Give third priority to eligible students whose household income levels exceed one hundred eighty-five percent of the federal poverty level but do not exceed two hundred thirteen percent of the federal poverty level; and

(iv) Give fourth priority to eligible students whose household income levels exceed two hundred thirteen percent of the federal poverty level but do not exceed three hundred percent of the income indicated in the income eligibility guidelines for reduced price meals under the National School Lunch Program in 7 C.F.R. part 210;

(b) Limit the maximum scholarship amount awarded to any eligible student to the cost necessary to educate the eligible student at the qualified school such student attends; and

(c) Limit scholarship amounts awarded to eligible students in a manner that assures that the average of the scholarship amounts awarded per student does not exceed seventy-five percent of the statewide average general fund operating expenditures per formula student for the most recently available complete data year as such terms are defined in section 79-1003.

(4) The annual limit on the total amount of education scholarships awarded under this section for fiscal year 2024-25 and each fiscal year thereafter shall be ten million dollars.

(5) On or before December 1, 2025, and on or before December 1 of each year thereafter, the State Treasurer shall electronically submit a report to the Governor and the Legislature that includes the following:

(a) A summary description of the State Treasurer's policies and procedures for awarding education scholarships;

(b) The number of eligible students receiving education scholarships in the most recent fiscal year;

(c) The total amount of education scholarships awarded in the most recent fiscal year;

(d) The number of eligible students currently wait-listed or denied from receiving an education scholarship and the reason for the wait-listing or denial; and

(e) The demographic information of eligible students receiving education scholarships, including, but not limited to:

(i) Income level;

(ii) Grade level; and

(iii) Geographic location.



(6) The State Treasurer may enter into contracts with up to three program managers for the purposes of carrying out the education scholarship program described in this section.

(7) It is the intent of the Legislature to appropriate ten million dollars from the General Fund for fiscal year 2024-25 and each fiscal year thereafter to the State Treasurer for the purpose of providing education scholarships as provided in this section.

(8) Up to seven and one-half percent of the funds appropriated for purposes of this section may be used by the State Treasurer, or by the program managers with which the State Treasurer contracts, for administrative expenses.

(9) This section shall not be construed as granting any expanded or additional authority to the State of Nebraska to control or influence the governance or policies of any qualified school due to the fact that the qualified school admits and enrolls students who receive education scholarships or as requiring any such qualified school to admit or, once admitted, to continue the enrollment of any student receiving an education scholarship.

**Source:** Laws 2024, LB1402, § 1.  
Operative date July 19, 2024.

**Note:** The Opportunity Scholarships Act was repealed by Laws 2024, LB1402. The text of the act can be found in sections 77-7101 to 77-7113 in the Revised Statutes Supplement, 2023.

**Note:** At the time of publication of this volume, section 79-1608 is the subject of a referendum petition that will be on the ballot for approval or rejection at the 2024 General Election.

**ARTICLE 17**  
**STATUTORY CONSTRUCTION**

Section

- 79-1701. Acts, proceedings, and appropriations; validation.
- 79-1702. Legislative intent; recodification.
- 79-1703. Rules and regulations; internal references; how construed.

**79-1701 Acts, proceedings, and appropriations; validation.**

Any acts and proceedings undertaken or funds appropriated in accordance with and pursuant to Laws 1991, LB 511, and prior to April 16, 1992, are hereby deemed undertaken pursuant to Laws 1992, LB 245, legalized, and validated if in compliance with Laws 1991, LB 511.

**Source:** Laws 1992, LB 245, § 96; R.S.1943, (1994), § 79-4,240; Laws 1996, LB 900, § 1011.

**79-1702 Legislative intent; recodification.**

It is the intent of the Legislature that the provisions of sections 79-101 to 79-1703 constitute a recodification of Chapter 79 of the Revised Statutes of Nebraska. The purpose of Laws 1996, LB 900, is to reorganize the laws within Chapter 79 and to modernize terminology. Sections 79-101 to 79-1703 should not be construed to change the meaning, intent, application, or effect of any provision in Chapter 79 as such existed prior to July 19, 1996. Article names and part names printed in Laws 1996, LB 900, are for informational purposes only and are not part of the law.

**Source:** Laws 1996, LB 900, § 1012.

**79-1703 Rules and regulations; internal references; how construed.**

Any reference to a Chapter 79 section number contained in rules and regulations adopted and promulgated prior to July 19, 1996, shall be deemed to refer to the section in Laws 1996, LB 900, containing the referenced provisions without requiring any revision of the rules or regulations, regardless of the section number assigned to such section as part of the codification process.

**Source:** Laws 1996, LB 900, § 1013.

## ARTICLE 18

### NEBRASKA ELEMENTARY AND SECONDARY SCHOOL FINANCE AUTHORITY ACT

#### Section

- 79-1801. Act, how cited.
- 79-1802. Legislative findings.
- 79-1803. Definitions, where found.
- 79-1804. Authority, defined.
- 79-1805. Bonds, defined.
- 79-1806. Cost, defined.
- 79-1807. Elementary or secondary school, defined.
- 79-1808. Project, defined.
- 79-1809. Property, defined.
- 79-1810. Nebraska Elementary and Secondary School Finance Authority; created.
- 79-1811. Authority; members; qualifications; appointment; terms; removal.
- 79-1812. Authority; officers; executive director; compensation; receive contributions.
- 79-1813. Authority; keep records and accounts; seal; certified copies.
- 79-1814. Authority; quorum; actions; vacancy; effect.
- 79-1815. Authority; officers, members, and employees; surety bond requirements.
- 79-1816. Authority; members; expenses.
- 79-1817. Authority; member or employee; conflict of interest; abstention.
- 79-1818. Authority; purpose.
- 79-1819. Authority; perpetual succession; bylaws.
- 79-1820. Authority; adopt seal.
- 79-1821. Authority; office; location.
- 79-1822. Authority; sue and be sued.
- 79-1823. Authority; powers over project.
- 79-1824. Authority; issuance of bonds authorized.
- 79-1825. Authority; charge for services.
- 79-1826. Authority; rules and regulations for use of project; designate agent.
- 79-1827. Authority; personnel.
- 79-1828. Authority; receive loans, grants, and contributions.
- 79-1829. Authority; mortgage of certain property.
- 79-1830. Authority; loans authorized; limitation.
- 79-1831. Authority; make loans; issue bonds; conditions.
- 79-1832. Authority; administrative costs; apportionment.
- 79-1833. Authority; general powers; joint projects.
- 79-1834. Authority; combine and substitute projects; bonds; additional series.
- 79-1835. Expenses; how paid; liability; limitation.
- 79-1836. Authority; acquisition of property.
- 79-1837. Authority; financing obligations completed; convey title.
- 79-1838. Authority; bonds; issuance; form; proceeds; how used; replacement; liability.
- 79-1839. Bond issuance; resolution; provisions enumerated.
- 79-1840. Bonds; secured by trust agreement; contents; expenses; how treated.
- 79-1841. Bonds issued to purchase securities of elementary or secondary school; provisions applicable.
- 79-1842. Refunding bonds; issuance authorized; provisions applicable.
- 79-1843. Bond issuance; state or political subdivision; no obligation; statement; expenses.
- 79-1844. Authority; charge rents; lease facilities.
- 79-1845. Money received by authority; deemed trust funds; investment.
- 79-1846. Bondholders and trustee; enforcement of rights.

## Section

- 79-1847. Act, how construed.  
 79-1848. Authority; journal; public records.  
 79-1849. Authority; public purpose; exemptions from taxation.  
 79-1850. Bondholders; pledge; agreement of the state.  
 79-1851. Act; supplemental to other laws.  
 79-1852. Act; provisions controlling.

**79-1801 Act, how cited.**

Sections 79-1801 to 79-1852 shall be known and may be cited as the Nebraska Elementary and Secondary School Finance Authority Act.

**Source:** Laws 1997, LB 809, § 1.

**79-1802 Legislative findings.**

The Legislature finds and declares that:

(1) For the benefit of the people of the State of Nebraska, the increase of their commerce, welfare, and prosperity, and the improvement of their health and living conditions, it is essential that this and future generations of youth be given the greatest opportunity to learn and to fully develop their intellectual and mental capacities and skills;

(2) To achieve these ends it is of the utmost importance that elementary and secondary schools within the state be provided with appropriate additional means of assisting such youth in achieving the required levels of learning and development of their intellectual and mental capacities and skills;

(3) It is the purpose of the Nebraska Elementary and Secondary School Finance Authority Act to provide a measure of assistance and an alternative method of enabling elementary and secondary schools in the state to finance the acquisition, construction, and renovation of needed educational facilities and structures and to refund, refinance, or reimburse outstanding indebtedness incurred by them or advances made by them, including advances from an endowment or any other similar fund, for the construction, acquisition, or renovation of needed educational facilities and structures, whether or not constructed, acquired, or renovated prior to September 13, 1997; and

(4) The financing and refinancing of educational facilities, through means other than the appropriation of public funds to elementary and secondary schools, as described in the act, is a valid public purpose.

**Source:** Laws 1997, LB 809, § 2.

**79-1803 Definitions, where found.**

For purposes of the Nebraska Elementary and Secondary School Finance Authority Act, unless the context otherwise requires, the definitions found in sections 79-1804 to 79-1809 apply.

**Source:** Laws 1997, LB 809, § 3.

**79-1804 Authority, defined.**

Authority means the Nebraska Elementary and Secondary School Finance Authority created by the Nebraska Elementary and Secondary School Finance Authority Act or any board, body, commission, department, or office succeeding

to the principal functions thereof or to whom the powers conferred upon such authority by the act are given by law.

**Source:** Laws 1997, LB 809, § 4.

**79-1805 Bonds, defined.**

Bonds means bonds, notes, or other obligations of the authority issued under the Nebraska Elementary and Secondary School Finance Authority Act, including refunding bonds, notwithstanding that the same may be secured by the full faith and credit of an elementary or secondary school or any other lawfully pledged security of an elementary or secondary school.

**Source:** Laws 1997, LB 809, § 5.

**79-1806 Cost, defined.**

Cost as applied to a project or any portion thereof financed under the Nebraska Elementary and Secondary School Finance Authority Act means all or any part of the cost of any capital expenditure by an elementary or secondary school, including, but not limited to, construction and acquisition of all land, buildings, or structures, including the cost of machinery and equipment; finance charges; interest prior to, during, and after completion of such construction for a reasonable period as determined by the authority; reserves for principal and interest; extensions, enlargements, additions, replacements, renovations, and improvements; engineering, financial, and legal services; plans, specifications, studies, surveys, estimates of cost of revenue, administrative expenses, expenses necessary or incidental to determining the feasibility or practicability of constructing the project; and such other expenses as the authority determines may be necessary or incidental to the construction and acquisition of the project, the financing of such construction and acquisition, and the placing of the project in operation.

**Source:** Laws 1997, LB 809, § 6.

**79-1807 Elementary or secondary school, defined.**

Elementary or secondary school means a not-for-profit educational institution located within this state which is not owned or controlled by the state or any political subdivision, agency, instrumentality, district, or municipality thereof, which is authorized by law to provide a program of education which:

- (1) Is for any or all of the grades kindergarten through twelfth grade;
- (2) Is approved or accredited by the State Department of Education; and
- (3) Does not discriminate in the admission of students on the basis of race, color, creed, national origin, ancestry, age, sex, or handicap, except that nothing in the Nebraska Elementary and Secondary School Finance Authority Act shall be construed or interpreted to prohibit the authority from financing a project for any elementary or secondary school which admits only students of a single gender.

**Source:** Laws 1997, LB 809, § 7.

**79-1808 Project, defined.**

- (1) Project means any property located within the state, constructed or acquired before, on, or after September 13, 1997, that may be used or will be

useful in connection with the instruction, feeding, recreation, or housing of students, the conducting of research, administration, or other work of an elementary or secondary school, or any combination of the foregoing. Project includes, but is not limited to, an academic facility, administrative facility, assembly hall, athletic facility, auditorium, campus, communication facility, exhibition hall, housing for faculty and other staff, instructional facility, laboratory, library, maintenance facility, museum, offices, parking area, physical educational facility, recreational facility, research facility, stadium, storage facility, student facility, student health facility, student housing, theatre, or utility facility.

(2) Project also means and includes the refunding or refinancing of outstanding obligations, mortgages, or advances, including advances from an endowment or similar fund, originally issued, made, or given by such elementary or secondary school to finance the cost of a project or projects whenever the authority finds that such refunding or refinancing is in the public interest and either:

- (a) Alleviates a financial hardship upon the elementary or secondary school;
- (b) Results in a lesser cost of education to its students; or
- (c) Enables the elementary or secondary school to offer greater security for the financing of a new project or projects or to effect savings in interest costs or more favorable amortization terms.

**Source:** Laws 1997, LB 809, § 8.

**79-1809 Property, defined.**

Property means the real estate upon which a project is or will be located, including equipment, machinery, and other similar items necessary or convenient for the operation of the project in the manner for which its use is intended, but not including such items as fuel, supplies, or other items that are customarily deemed to result in a current operation charge. Property does not include any property used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

**Source:** Laws 1997, LB 809, § 9.

**79-1810 Nebraska Elementary and Secondary School Finance Authority; created.**

There is hereby created a body politic and corporate to be known as the Nebraska Elementary and Secondary School Finance Authority. The authority is constituted a public instrumentality, and the exercise by the authority of the powers conferred by the Nebraska Elementary and Secondary School Finance Authority Act shall be deemed and held to be the performance of an essential public function of the state.

**Source:** Laws 1997, LB 809, § 10.

**79-1811 Authority; members; qualifications; appointment; terms; removal.**

The authority consists of five members, to be appointed by the Governor, who shall be residents of the state, not more than three of whom shall be members of the same political party. The members of the authority first appointed shall serve for terms expiring as follows: Three on December 31, 1998; and two on December 31, 2000, respectively, the term of each such member to be designat-

ed by the Governor. Upon the expiration of the term of any member, his or her successor shall be appointed for a term of four years and until a successor has been appointed and qualified. The Governor shall fill any vacancy for the remainder of the unexpired term. Any member of the authority may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty or other cause after notice and a public hearing unless such notice and hearing is expressly waived in writing by the accused member. Each member shall be eligible for reappointment to a successive term but shall be ineligible for three consecutive full terms.

**Source:** Laws 1997, LB 809, § 11.

**79-1812 Authority; officers; executive director; compensation; receive contributions.**

The Governor shall designate one of the members representing the elementary or secondary schools to convene the organizational meeting of the authority and to serve as its temporary chairperson. At that meeting and annually thereafter, the authority shall elect one of its members as chairperson and another member as vice-chairperson. It may appoint an executive director and assistant executive director, who shall not be members of the authority but who shall serve at the pleasure of the authority. An assistant executive director shall perform the duties of the executive director in the event of the absence or inability to act of the executive director. The executive director and the assistant executive director shall receive compensation as fixed by the authority. The authority may receive contributions to fund any of its expenses from private donors, including any one or more of the elementary or secondary schools or an association representing the elementary or secondary schools.

**Source:** Laws 1997, LB 809, § 12.

**79-1813 Authority; keep records and accounts; seal; certified copies.**

The executive director, assistant executive director, or any other person designated by resolution of the authority shall keep records and accounts of all proceedings and financial dealings of the authority, shall be custodian of all books, documents, and papers filed with the authority, the minute book or journal of the authority, and its official seal, and shall be custodian of all funds of the authority. The executive director, assistant executive director, or other designated person may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

**Source:** Laws 1997, LB 809, § 13.

**79-1814 Authority; quorum; actions; vacancy; effect.**

Three members of the authority shall constitute a quorum. The affirmative vote of a majority of all of the members of the authority shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under the Nebraska Elementary and Secondary School Finance Authority Act may be

authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted.

**Source:** Laws 1997, LB 809, § 14.

**79-1815 Authority; officers, members, and employees; surety bond requirements.**

Before the issuance of any bonds under the Nebraska Elementary and Secondary School Finance Authority Act, the chairperson, vice-chairperson, executive director, and assistant executive director, if any, and any other member of the authority authorized by resolution of the authority to handle funds or sign checks of the authority shall execute a surety bond in such amount as a majority of the members of the authority determine, or alternatively, the chairperson of the authority shall execute a blanket bond effecting such coverage. Each surety bond shall be conditioned upon the faithful performance of the duties of the office or offices covered and shall be executed by a surety company authorized to transact business in this state, and the cost of each such surety bond shall be paid by the authority.

**Source:** Laws 1997, LB 809, § 15.

**79-1816 Authority; members; expenses.**

The members of the authority shall receive no compensation for the performance of their duties as members, but each such member shall be reimbursed for expenses while engaged in the performance of such duties as provided in sections 81-1174 to 81-1177 from any funds legally available therefor.

**Source:** Laws 1997, LB 809, § 16; Laws 2020, LB381, § 96.

**79-1817 Authority; member or employee; conflict of interest; abstention.**

Notwithstanding any other law to the contrary, it shall not be or constitute a conflict of interest for a trustee, director, officer, or employee of any educational institution, financial institution, commercial bank or trust company, architecture firm, insurance company, or any firm, person, or corporation to serve as a member of the authority, but such trustee, director, officer, or employee shall abstain from any deliberation or action by the authority when the business affiliation of any such trustee, director, officer, or employee is involved. The executive director may serve less than full time. If the executive director serves less than full time, his or her other employment, if any, shall be reviewed by the members of the authority for potential conflicts of interest and whether such other employment would prevent the executive director from fully discharging his or her duties. No member of the authority may be a representative of a bank, investment banking firm, or other financial institution that underwrites the bonds of the authority.

**Source:** Laws 1997, LB 809, § 17.

**79-1818 Authority; purpose.**

The purpose of the authority shall be to assist private institutions of elementary and secondary education in the constructing, financing, and refinancing of projects.

**Source:** Laws 1997, LB 809, § 18.

**79-1819 Authority; perpetual succession; bylaws.**

The authority shall have perpetual succession as a body politic and corporate and may adopt bylaws for the regulation of its affairs and the conduct of its business.

**Source:** Laws 1997, LB 809, § 19.

**79-1820 Authority; adopt seal.**

The authority may adopt an official seal and alter the same at its pleasure.

**Source:** Laws 1997, LB 809, § 20.

**79-1821 Authority; office; location.**

The authority may maintain an office at such place or places within Nebraska as it may designate.

**Source:** Laws 1997, LB 809, § 21.

**79-1822 Authority; sue and be sued.**

The authority may sue and be sued in its own name.

**Source:** Laws 1997, LB 809, § 22.

**79-1823 Authority; powers over project.**

The authority may determine the location and character of any project to be financed or refinanced under the Nebraska Elementary and Secondary School Finance Authority Act and construct, reconstruct, remodel, renovate, replace, maintain, repair, operate, lease as lessee or lessor, and regulate the same. The authority may also enter into contracts for any or all of such purposes, enter into contracts for the management and operation of a project, and designate an elementary or secondary school as its agent to determine the location and character of a project undertaken by an elementary or secondary school under the act and as the agent of the authority, to construct, reconstruct, remodel, renovate, replace, maintain, repair, operate, lease as lessee or lessor, and regulate the same and, as the agent of the authority, to enter into contracts for any or all of such purposes, including contracts for the management and operation of such project.

**Source:** Laws 1997, LB 809, § 23.

**79-1824 Authority; issuance of bonds authorized.**

The authority may issue bonds of the authority for any of its corporate purposes and fund or refund the same pursuant to the Nebraska Elementary and Secondary School Finance Authority Act.

**Source:** Laws 1997, LB 809, § 24.

**79-1825 Authority; charge for services.**

The authority may charge and collect rates, rents, fees, and other charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and contract with any person, partnership, limited liability company, association, or corporation or other body public or private, except that the authority shall have no jurisdiction over rates, rents, fees, and charges established by an elementary or secondary school for its students other than to



require that such rates, rents, fees, and charges by such school be sufficient to discharge such school's obligation to the authority.

**Source:** Laws 1997, LB 809, § 25.

**79-1826 Authority; rules and regulations for use of project; designate agent.**

The authority may establish rules and regulations for the use of a project or any portion thereof and designate an elementary or secondary school as its agent to establish rules and regulations for the use of a project undertaken by such elementary or secondary school.

**Source:** Laws 1997, LB 809, § 26.

**79-1827 Authority; personnel.**

The authority may employ consulting engineers, architects, attorneys, accountants, trustees, construction and finance experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and fix their compensation.

**Source:** Laws 1997, LB 809, § 27.

**79-1828 Authority; receive loans, grants, and contributions.**

The authority may receive and accept from any source loans or grants for or in aid of the construction of a project or any portion thereof, and receive and accept from any source loans, grants, aid, or contributions of money, property, labor, or other things of value, to be held, used, and applied only for the purpose for which such loans, grants, aid, or contributions are made.

**Source:** Laws 1997, LB 809, § 28.

**79-1829 Authority; mortgage of certain property.**

The authority may mortgage all or any portion of any project or any other facilities conveyed to the authority for such purpose and the site or sites thereof, whether presently owned or subsequently acquired, for the benefit of the holders of the bonds of the authority issued to finance such project or any portion thereof or issued to refund or refinance outstanding indebtedness or to reimburse an endowment or any similar fund of an elementary or secondary school as permitted by the Nebraska Elementary and Secondary School Finance Authority Act.

**Source:** Laws 1997, LB 809, § 29.

**79-1830 Authority; loans authorized; limitation.**

The authority may make loans to any elementary or secondary school for the cost of any project in accordance with an agreement between the authority and such elementary or secondary school except that no such loan shall exceed the total cost of such project as determined by such elementary or secondary school and approved by the authority.

**Source:** Laws 1997, LB 809, § 30.

**79-1831 Authority; make loans; issue bonds; conditions.**

The authority may make loans to an elementary or secondary school and refund or reimburse outstanding obligations, mortgages, or advances, including

advances from an endowment or any similar fund, issued, made, or given by such elementary or secondary school whether before, on, or after September 13, 1997, for the cost of a project, including the power to issue bonds and make loans to an elementary or secondary school to refinance indebtedness incurred or to reimburse advances made for projects undertaken prior thereto whenever the authority finds that such financing is in the public interest, and either: (1) Alleviates a financial hardship upon the elementary or secondary school, (2) results in a lesser cost of education, or (3) enables the elementary or secondary school to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

**Source:** Laws 1997, LB 809, § 31.

**79-1832 Authority; administrative costs; apportionment.**

The authority may charge to and equitably apportion among participating elementary or secondary schools its administrative costs and expenses incurred in the exercise of the powers and duties conferred by the Nebraska Elementary and Secondary School Finance Authority Act.

**Source:** Laws 1997, LB 809, § 32.

**79-1833 Authority; general powers; joint projects.**

The authority may do all things necessary or convenient to carry out the purposes of the Nebraska Elementary and Secondary School Finance Authority Act.

In carrying out the purposes of the act, the authority may undertake a project for two or more elementary or secondary schools jointly, or for any combination thereof, and thereupon all other provisions of the act shall apply to and be for the benefit of the authority and such joint participants.

**Source:** Laws 1997, LB 809, § 33.

**79-1834 Authority; combine and substitute projects; bonds; additional series.**

Notwithstanding any other provision contained in the Nebraska Elementary and Secondary School Finance Authority Act, the authority may combine for financing purposes, with the consent of all of the elementary or secondary schools which are involved, the project or projects and some or all future projects of any elementary or secondary school, but the money set aside in any fund or funds pledged for any series or issue of bonds shall be held for the sole benefit of such series or issue separate and apart from any money pledged for any other series or issue of bonds of the authority. To facilitate the combining of projects, bonds may be issued in series under one or more resolutions or trust agreements and be fully open end, thus providing for the unlimited issuance of additional series, or partially open end, limited as to additional series, all in the discretion of the authority. Notwithstanding any other provision of the act to the contrary, the authority may, in its discretion, permit an elementary or secondary school to substitute one or more projects of equal value, as determined by an independent appraiser satisfactory to the authority, for any project financed under the act on such terms and subject to such conditions as the authority may prescribe.

**Source:** Laws 1997, LB 809, § 34.

**79-1835 Expenses; how paid; liability; limitation.**

All expenses incurred in carrying out the Nebraska Elementary and Secondary School Finance Authority Act shall be payable solely from funds provided under the act, and no liability or obligation shall be incurred by the authority beyond the extent to which money has been provided under the act.

**Source:** Laws 1997, LB 809, § 35.

**79-1836 Authority; acquisition of property.**

The authority is authorized and empowered, directly or by and through an elementary or secondary school, as its agent, to acquire by purchase, gift, or devise, such lands, structures, property, real or personal, rights, rights-of-way, franchises, easements, and other interests in lands, and including existing facilities of an elementary or secondary school, as it may deem necessary or convenient for the construction, acquisition, or operation of a project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between the authority and the owner thereof, and to take title thereto in the name of the authority or in the name of an elementary or secondary school as its agent.

**Source:** Laws 1997, LB 809, § 36.

**79-1837 Authority; financing obligations completed; convey title.**

When the principal of and interest on bonds of the authority issued to finance the cost of a particular project or projects for an elementary or secondary school, including any refunding bonds issued to refund and refinance such bonds, have been fully paid and retired or when adequate provision has been made to fully pay and retire the same, and all other conditions of the bond resolution authorizing the same have been satisfied and the lien created by such bond resolution has been released in accordance with the provisions thereof, the authority shall promptly do such things and execute such deeds, conveyances, and other instruments, if any, as are necessary and required to convey title of such project or projects to such elementary or secondary school.

**Source:** Laws 1997, LB 809, § 37.

**79-1838 Authority; bonds; issuance; form; proceeds; how used; replacement; liability.**

The authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds for the purpose of paying, refinancing, or reimbursing all or any part of the cost of a project. Except to the extent payable from payments to be made on securities as provided in section 79-1841, the principal of and the interest on such bonds shall be payable solely out of the revenue of the authority derived from the project or program to which they relate and from any other facilities or assets pledged or made available therefor by the elementary or secondary school for whose benefit such bonds were issued. The bonds of each issue shall be dated, shall bear interest at such rate or rates, without regard to any limit contained in any other statute or law of the State of Nebraska, shall mature at such time or times not exceeding forty years from the date thereof, all as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by

the authority in the authorizing resolution. Except to the extent required by the Nebraska Elementary and Secondary School Finance Authority Act, such bonds are to be paid out of the revenue of the project to which they relate and, in certain instances, the revenue of certain other facilities, and subject to section 79-1841 with respect to a pledge of securities, the bonds may be unsecured or secured in the manner and to the extent determined by the authority in its discretion.

The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state. The bonds shall be signed in the name of the authority, by its chairperson or vice-chairperson or by a facsimile signature of such person, the official seal of the authority or a facsimile thereof shall be affixed thereto and attested by the manual or facsimile signature of the executive director or assistant executive director of the authority, and any coupons attached thereto shall bear the facsimile signature of the executive director or assistant executive director of the authority. In case any official of the authority whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be such an official before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained an official of the authority until such delivery.

All bonds issued under the act shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the law of the State of Nebraska. The bonds may be issued in coupon or in registered form, or both, and one form may be exchangeable for the other in such manner as the authority may determine. Provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The bonds may be sold in such manner, either at public or private sale, as the authority may determine.

The proceeds of the bonds of each issue shall be used solely for the payment of the costs of the project or program for which such bonds have been issued and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement provided for in section 79-1840 securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, are less than such costs, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue exceed the cost of the project or program for which they were issued, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the authority may under like restrictions issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

The authority may also provide for the replacement of any bonds which become mutilated or are destroyed or lost. Bonds may be issued under the act without obtaining the consent of any officer, department, division, commission, board, bureau, or agency of the state and without any other proceedings or conditions other than those proceedings and conditions which are specifically required by the act. The authority may out of any funds available therefor purchase its bonds. The authority may hold, pledge, cancel, or resell such bonds, subject to and in accordance with any agreement with the bondholders. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

**Source:** Laws 1997, LB 809, § 38.

**79-1839 Bond issuance; resolution; provisions enumerated.**

Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to (1) pledging or assigning the revenue of the project or loan with respect to which such bonds are to be issued or the revenue of any other property, facilities, or loans, (2) the rentals, fees, and other amounts to be charged, the amounts to be raised in each year thereby, and the use and disposition of such amounts, (3) the setting aside of reserves or sinking funds, and the regulation, investment, and disposition thereof, (4) limitations on the use of the project, (5) limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds, (6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds, (7) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given, (8) limitations on the amount of money derived from the project or loan to be expended for operating, administrative, or other expenses of the authority, (9) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default, (10) the mortgaging of a project and the site thereof or any other property for the purpose of securing the bondholders, and (11) any other matters relating to the bonds which the authority deems desirable.

**Source:** Laws 1997, LB 809, § 39.

**79-1840 Bonds; secured by trust agreement; contents; expenses; how treated.**

In the discretion of the authority, any bonds issued under the Nebraska Elementary and Secondary School Finance Authority Act may be secured by a trust agreement by and between the authority and an incorporated trustee or trustees which may be any trust company or bank having the powers of a trust company within the state. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenue to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof.

Any pledge or assignment made by the authority pursuant to this section shall be valid and binding from the time that the pledge or assignment is made, and the revenue so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge or assignment without physical delivery thereof or any further act. The lien of such pledge or assignment shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority irrespective of whether such parties have notice thereof.

The resolution or any trust agreement by which a pledge is created or an assignment made shall be filed or recorded in the records of the authority and with the Secretary of State and, in the case of a project, in each county in which the project is located.

Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, not in violation of law, or provided for in the act.

Any bank or trust company incorporated under the laws of this state which acts as a depository of the proceeds of the bonds, any revenue, or other money shall furnish such indemnifying bonds or pledge such securities as may be required by the authority.

Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees and may restrict the individual right of action by bondholders. Any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders.

All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of a project.

**Source:** Laws 1997, LB 809, § 40.

**79-1841 Bonds issued to purchase securities of elementary or secondary school; provisions applicable.**

In addition to any other methods of financing authorized in the Nebraska Elementary and Secondary School Finance Authority Act, the authority may finance the cost of a project or program, refund outstanding indebtedness, or reimburse advances from an endowment or any similar fund of an elementary or secondary school as authorized by section 79-1831 by issuing its bonds for the purpose of purchasing the securities of an elementary or secondary school. Any such securities shall have the same principal amounts, maturities, and interest rates as the bonds being issued, may be secured by a first mortgage lien on or security interest in any real or personal property, subject to such exceptions as the authority may approve and created by a mortgage or security instrument satisfactory to the authority, and may be insured or guaranteed by others. Any such bonds shall be secured by a pledge of such securities under the trust agreement creating such bonds, shall be payable solely out of the payments to be made on such securities, and shall not exceed in principal amount the cost of such project or program, the refunding of such indebtedness, or reimbursement of such advances as determined by the elementary or secondary school and approved by the authority. In other respects any such bonds shall be subject to the act, including sections 79-1838 and 79-1839, and the trust

agreement creating such bonds may contain any of the provisions set forth in section 79-1840 as the authority may consider appropriate.

If a project is financed pursuant to this section, the title to such project shall remain in the elementary or secondary school owning the same, subject to the lien of the mortgage or security interest, if any, securing the securities then being purchased, and there shall be no lease of such facility between the authority and such elementary or secondary school.

Section 79-1837 shall not apply to any project financed pursuant to this section, but the authority shall return the securities purchased through the issuance of bonds pursuant to this section to the elementary or secondary school issuing such securities when such bonds have been fully paid and retired or when adequate provision has been made to pay and retire such bonds fully and all other conditions of the trust agreement creating such bonds have been satisfied and any lien established pursuant to this section has been released in accordance with the trust agreement.

**Source:** Laws 1997, LB 809, § 41.

**79-1842 Refunding bonds; issuance authorized; provisions applicable.**

The authority is hereby authorized to provide by resolution for the issuance of refunding bonds for the purpose of refunding any bonds then outstanding which have been issued by it under the Nebraska Elementary and Secondary School Finance Authority Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of maturity or earlier redemption of such bonds, and, in the case of a project and if deemed advisable by the authority, for the additional purposes of constructing and acquiring improvements, extensions, or enlargements of the project in connection with which the bonds to be refunded were issued and of paying any expenses which the authority determines may be necessary or incidental to the issuance of such refunding bonds and the construction and acquisition of such improvements, extensions, or enlargements. Such refunding bonds shall be payable solely out of the revenue of the project, including any such improvements, extensions, or enlargements thereto, or program to which the bonds being refunded relate or as otherwise described in sections 79-1838 and 79-1841. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, the rights, duties, and obligations of the authority with respect to such bonds, and the manner of sale thereof shall be governed by the act insofar as applicable.

The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or earlier redemption of such outstanding bonds either on their earliest or any subsequent redemption date, upon the purchase of such bonds, or at the maturity of such bonds and may, pending such application, be placed in escrow to be applied to such purchase, retirement at maturity, or earlier redemption.

Any such escrowed proceeds, pending such use, may be invested and reinvested in direct obligations of the United States of America or obligations the timely payment of principal and interest on which is fully guaranteed by the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment of the principal of and interest and redemption premium, if any, on the outstanding bonds to be so refunded. The interest,

income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. Only after the terms of the escrow have been fully satisfied and carried out may any balance of such proceeds, interest, income, or profits earned or realized on the investments thereof be returned to the elementary or secondary school for whose benefit the refunded bonds were issued for use by it in any lawful manner.

All such bonds shall be subject to the act in the same manner and to the same extent as other revenue bonds issued pursuant to the act.

**Source:** Laws 1997, LB 809, § 42.

**79-1843 Bond issuance; state or political subdivision; no obligation; statement; expenses.**

Bonds issued pursuant to the Nebraska Elementary and Secondary School Finance Authority Act shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be a limited obligation of the authority payable solely from the funds, securities, or government securities pledged for their payment as authorized in the act unless such bonds are refunded by refunding bonds issued under the act, which refunding bonds shall be payable solely from funds, securities, or government securities pledged for their payment as authorized in the act. All such revenue bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the State of Nebraska or of any political subdivision thereof but are limited obligations of the authority payable solely from revenue, securities, or government securities, as the case may be, pledged for their payment. All expenses incurred in carrying out the act shall be payable solely from funds provided under the authority of the act, and nothing contained in the act shall be construed to authorize the authority to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.

**Source:** Laws 1997, LB 809, § 43.

**79-1844 Authority; charge rents; lease facilities.**

Except for projects financed pursuant to section 79-1841, the authority shall fix, revise, charge, and collect rents for the use of each project and contract with any elementary or secondary school in respect thereof. Each lease entered into by the authority with an elementary or secondary school shall provide that the rents payable by the elementary or secondary school shall be sufficient at all times (1) to pay its share of the administrative costs and expenses of the authority, (2) to pay the authority's cost, if any, of maintaining, repairing, and operating the project and each and every portion thereof, (3) to pay the principal of, the premium, if any, and the interest on outstanding bonds of the authority issued with respect to such project as the same shall become due and payable, and (4) to create and maintain reserves which may be provided for in the bond resolution or trust agreement relating to such bonds of the authority.

With respect to projects financed pursuant to section 79-1841, the authority shall require the elementary or secondary school involved to enter into agree-



ments obligating such school to make payments sufficient to accomplish the purposes described in this section.

**Source:** Laws 1997, LB 809, § 44.

**79-1845 Money received by authority; deemed trust funds; investment.**

All money received by the authority, whether as proceeds from the sale of bonds, from revenue, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in the Nebraska Elementary and Secondary School Finance Authority Act but, prior to the time when needed for use, may be invested to the extent and in the manner provided for the investment of public funds of the state under the laws then in effect. Such funds shall be deposited, held, and secured in accordance with the Public Funds Deposit Security Act, except to the extent provided otherwise in the resolution authorizing the issuance of the related bonds or in the trust agreement securing such bonds. The resolution authorizing the issuance of such bonds or the trust agreement securing such bonds shall provide that any officer to whom or any bank or trust company to which such money is entrusted shall act as trustee of such money and shall hold and apply the same for the purposes of the act, subject to the act, and of the authorizing resolution or trust agreement.

**Source:** Laws 1997, LB 809, § 45.

**Cross References**

**Public Funds Deposit Security Act**, see section 77-2386.

**79-1846 Bondholders and trustee; enforcement of rights.**

Any holder of bonds or of any of the coupons appertaining thereto issued under the Nebraska Elementary and Secondary School Finance Authority Act and the trustee under any trust agreement, except to the extent the rights given in the act may be restricted by the authorizing resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state, the act, or such trust agreement or resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by the act or by such trust agreement or resolution to be performed by the authority or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of rates, rents, fees, and charges authorized in the act and required by the provisions of such resolution or trust agreement to be fixed, established, and collected.

Such rights shall include the right to compel the performance of all duties of the authority required by the act or the bond resolution or trust agreement to enjoin unlawful activities and, in the event of default with respect to the payment of any principal of and premium, if any, and interest on any bond or in the performance of any covenant or agreement on the part of the authority in the bond resolution, to apply to a court having jurisdiction of the cause to appoint a receiver to administer and operate a project, the revenue of which is pledged to the payment of the principal of and premium, if any, and interest on such bonds, with full power to pay and to provide for payment of the principal of and premium, if any, and interest on such bonds, and with such powers, subject to the direction of the court, as are permitted by law and are accorded receivers in general equity cases, excluding any power to pledge additional revenue of the authority to the payment of such principal, premium, and

interest, and to foreclose the mortgage on the project in the same manner as the foreclosure of a mortgage on real estate of private corporations.

**Source:** Laws 1997, LB 809, § 46.

**79-1847 Act, how construed.**

The Nebraska Elementary and Secondary School Finance Authority Act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

**Source:** Laws 1997, LB 809, § 47.

**79-1848 Authority; journal; public records.**

All final actions of the authority shall be recorded in a journal, and the journal and all instruments and documents relating thereto shall be kept on file at the office of the authority and shall be open to the inspection of the public at all reasonable times.

**Source:** Laws 1997, LB 809, § 48.

**79-1849 Authority; public purpose; exemptions from taxation.**

The exercise of the powers granted by the Nebraska Elementary and Secondary School Finance Authority Act shall be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, for the improvement of their health and living conditions, and for the development of their intellectual and mental capacities and skills, and as the operation, maintenance, financing, or refinancing of a project or program by the authority or its agent will constitute the performance of essential governmental functions and serve a public purpose, neither the authority nor its agent shall be required to pay any taxes or assessments, upon or with respect to a project or any property acquired or used by the authority or its agent under the act, upon the income therefrom, or upon any other amounts received by the authority in respect thereof, including payments of principal of or premium or interest on or in respect of any securities purchased pursuant to section 79-1841. The bonds issued under the act, the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity, proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the State of Nebraska for all purposes except the state inheritance tax.

**Source:** Laws 1997, LB 809, § 49.

**79-1850 Bondholders; pledge; agreement of the state.**

The State of Nebraska does hereby pledge to and agree with the holders of any obligations issued under the Nebraska Elementary and Secondary School Finance Authority Act and with those parties who may enter into contracts with the authority pursuant to the act that the state will not limit or alter the rights vested in the authority until such obligations, together with the interest thereon, are fully met and discharged and such contracts are fully performed on the part of the authority, except that nothing contained in this section shall preclude such limitation or alteration if and when adequate provision is made by law for

the protection of the holders of such obligations of the authority or those entering into such contracts with the authority.

**Source:** Laws 1997, LB 809, § 50.

**79-1851 Act; supplemental to other laws.**

The Nebraska Elementary and Secondary School Finance Authority Act shall be deemed to provide a complete, additional, and alternative method for doing the things authorized in the act and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under the act need not comply with the requirements of any other law applicable to the issuance of bonds, and the construction and acquisition of a project pursuant to the act by the authority need not comply with the requirements of any competitive bidding law or other restriction imposed on the procedure for award of contracts for the construction and equipping of a project or the lease, sale, or disposition of property of the authority, except that if the prospective lessee so requests in writing, the authority shall call for construction bids in such manner as shall be determined by the authority with the approval of such lessee. Except as otherwise expressly provided in the act, none of the powers granted to the authority under the act shall be subject to the supervision of or regulation by or require the approval or consent of any municipality, political subdivision, commission, board, body, bureau, official, or agency of the state.

**Source:** Laws 1997, LB 809, § 51.

**79-1852 Act; provisions controlling.**

To the extent that the Nebraska Elementary and Secondary School Finance Authority Act is inconsistent with any general statute or special act or parts thereof, the Nebraska Elementary and Secondary School Finance Authority Act shall control.

**Source:** Laws 1997, LB 809, § 52.

**ARTICLE 19**

**NEBRASKA READ, EDUCATE, AND DEVELOP YOUTH ACT**

Section

- 79-1901. Act, how cited.
- 79-1902. State Department of Education; cooperation with Department of Health and Human Services; develop educational packet; contents.
- 79-1903. Packet; development; distribution; private financial assistance.
- 79-1904. READY Cash Fund; created; use; investment.
- 79-1905. Repealed. Laws 2013, LB 222, § 48.

**79-1901 Act, how cited.**

Sections 79-1901 to 79-1904 shall be known and may be cited as the Nebraska Read, Educate, and Develop Youth Act.

**Source:** Laws 2002, LB 326, § 1; Laws 2013, LB222, § 35.

**79-1902 State Department of Education; cooperation with Department of Health and Human Services; develop educational packet; contents.**

(1) The State Department of Education, in cooperation with the Department of Health and Human Services, shall develop a packet entitled "Learning

Begins at Birth” to be given to the parents of each child born in this state on and after January 1, 2003.

(2) The packet shall contain information about child development, child care, how children learn, children’s health including, on and after July 14, 2006, information on decreasing the risk of sudden unexplained infant death syndrome and abusive head trauma in infants and children, services available to children and parents, and any other information deemed relevant by the Department of Health and Human Services or the State Department of Education. The State Department of Education shall indicate which information in the packet is appropriate for the parents of infants, for the parents of toddlers, and for the parents of preschoolers.

(3) The State Department of Education shall develop a variety of types of the packet, based on the needs of parents. The information in the packets may be in the form of printed material or in the form of video tapes, audio cassettes, or other appropriate media.

**Source:** Laws 2002, LB 326, § 2; Laws 2006, LB 994, § 109; Laws 2007, LB296, § 714; Laws 2019, LB60, § 5.

**79-1903 Packet; development; distribution; private financial assistance.**

(1) The Department of Health and Human Services shall assist the State Department of Education in developing the packet and shall develop methods of distributing the packet to parents upon the birth of a child in this state beginning on January 1, 2003.

(2) The departments shall solicit private financial assistance to carry out their duties under the Nebraska Read, Educate, and Develop Youth Act. The departments shall not endorse any private company or product, but private companies may have their names placed on materials in the packet to help underwrite the costs of developing and distributing the packets.

**Source:** Laws 2002, LB 326, § 3; Laws 2007, LB296, § 715.

**79-1904 READY Cash Fund; created; use; investment.**

The READY Cash Fund is created. The fund shall contain money received from private sources to underwrite the costs of the Nebraska Read, Educate, and Develop Youth Act. The fund shall be used by the State Department of Education and the Department of Health and Human Services to aid in carrying out their duties under the act. The fund shall be administered by the Department of Health and Human Services. Any money in the fund available for investment may be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 2002, LB 326, § 4; Laws 2007, LB296, § 716.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

**79-1905 Repealed. Laws 2013, LB 222, § 48.**

**ARTICLE 20**

**NEBRASKA SCHOOLS CONSTRUCTION ALTERNATIVES ACT**

- Section  
79-2001. Transferred to section 13-2901.  
79-2002. Transferred to section 13-2902.  
79-2003. Transferred to section 13-2903.  
79-2004. Transferred to section 13-2904.  
79-2005. Transferred to section 13-2905.  
79-2006. Transferred to section 13-2906.  
79-2007. Transferred to section 13-2907.  
79-2008. Transferred to section 13-2908.  
79-2009. Transferred to section 13-2909.  
79-2010. Transferred to section 13-2910.  
79-2011. Transferred to section 13-2911.  
79-2012. Transferred to section 13-2912.  
79-2013. Transferred to section 13-2913.  
79-2014. Repealed. Laws 2008, LB 889, § 16.  
79-2015. Repealed. Laws 2008, LB 889, § 16.

**79-2001 Transferred to section 13-2901.**

**79-2002 Transferred to section 13-2902.**

**79-2003 Transferred to section 13-2903.**

**79-2004 Transferred to section 13-2904.**

**79-2005 Transferred to section 13-2905.**

**79-2006 Transferred to section 13-2906.**

**79-2007 Transferred to section 13-2907.**

**79-2008 Transferred to section 13-2908.**

**79-2009 Transferred to section 13-2909.**

**79-2010 Transferred to section 13-2910.**

**79-2011 Transferred to section 13-2911.**

**79-2012 Transferred to section 13-2912.**

**79-2013 Transferred to section 13-2913.**

**79-2014 Repealed. Laws 2008, LB 889, § 16.**

**79-2015 Repealed. Laws 2008, LB 889, § 16.**

**ARTICLE 21**

**LEARNING COMMUNITY**

- Section  
79-2101. Learning community, defined; fiscal year.  
79-2102. Establishment of new learning community; Commissioner of Education; certification.  
79-2102.01. Learning community coordinating council; meeting; officers; Secretary of State; duties.  
79-2103. State Department of Education; learning community funds; distribution.

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## Section

- 79-2104. Learning community coordinating council; powers.
- 79-2104.01. Learning community coordinating council; advisory committee; members; duties.
- 79-2104.02. Learning community coordinating council; use of funds; report.
- 79-2104.03. Advisory committee; submit plan for early childhood education programs for children in poverty; powers and duties.
- 79-2104.04. Learning community coordinating council; members; duties.
- 79-2105. Repealed. Laws 2007, LB 641, § 54.
- 79-2106. Repealed. Laws 2007, LB 641, § 54.
- 79-2107. Repealed. Laws 2016, LB1067, § 70.
- 79-2108. Repealed. Laws 2007, LB 641, § 54.
- 79-2109. Repealed. Laws 2007, LB 641, § 54.
- 79-2110. Diversity plan; limitations; school building maximum capacity; attendance areas; school board; duties; application to attend school outside attendance area; procedure; continuing student; notice.
- 79-2110.01. Open enrollment students; how treated; disability; transportation services.
- 79-2111. Elementary learning center facilities; focus school or program capital projects; tax levy; repayment of funds; interest; waiver.
- 79-2112. Elementary learning center; elementary learning center executive director; qualifications; assistants and employees.
- 79-2113. Elementary learning center; establishment; achievement subcouncil; plan; powers and duties; location of facilities.
- 79-2114. Elementary learning center; services and programs; report required.
- 79-2115. Learning community funds; use; learning community coordinating council; powers and duties; pilot project; audits.
- 79-2116. Elementary learning center; employees; terms and conditions of employment.
- 79-2117. Learning community coordinating council; achievement subcouncil; membership; meeting; hearing; duties.
- 79-2118. Diversity plan; contents; approval; report.
- 79-2119. Insurance coverage; authorized.
- 79-2120. State Department of Education; certification of students qualifying for free or reduced-price lunches.
- 79-2121. Plan to reduce excessive absenteeism; development and participation.
- 79-2122. Community achievement plans; submission to State Department of Education; state board; approve or reject; reasons; term; report; department; duties.
- 79-2123. Annual financial report; contents; audit; failure to file annual financial report; commissioner; duties.

**79-2101 Learning community, defined; fiscal year.**

Learning community means a political subdivision which shares the territory of member school districts and is governed by a learning community coordinating council. The fiscal year for a learning community shall be the same as for member school districts.

**Source:** Laws 2006, LB 1024, § 103; Laws 2007, LB641, § 35.

**79-2102 Establishment of new learning community; Commissioner of Education; certification.**

On or before September 15, 2007, and on or before August 1 of each odd-numbered year following the official designation of any new city of the metropolitan class or any valid request to form a new learning community, the Commissioner of Education shall certify the establishment of a new learning community with the effective date of the first Thursday after the first Tuesday in January of the next odd-numbered year following such certification to the county clerks, election commissioners, and county assessors of the counties

with territory in the new learning community, to the Property Tax Administrator, to the State Department of Education, and to the school boards of the member school districts of the new learning community. A learning community shall be established for each city of the metropolitan class and shall include all school districts for which the principal office of the school district is located in the county where the city of the metropolitan class is located and all school districts for which the principal office of the school district is located in a county that has a contiguous border of at least five miles in the aggregate with such city of the metropolitan class. A learning community may also be established at the request of at least three school boards if (1) all school districts for which the principal office of the school district is located in one or more specified counties are participating in the request and either (a) such school districts are all sparse or very sparse as determined pursuant to the Tax Equity and Educational Opportunities Support Act or (b) have a minimum combined total of at least two thousand students or (2) the school districts participating in the request have a minimum combined total of at least ten thousand students. Such requests shall be received by the Commissioner of Education on or before May 1 of each odd-numbered year.

**Source:** Laws 2006, LB 1024, § 104; Laws 2007, LB641, § 36; Laws 2008, LB988, § 54; Laws 2008, LB1154, § 16.

**Cross References**

**Tax Equity and Educational Opportunities Support Act**, see section 79-1001.

**79-2102.01 Learning community coordinating council; meeting; officers; Secretary of State; duties.**

The Secretary of State or his or her designee shall schedule and host the first meeting of the newly elected learning community coordinating council during the month of January following the election and shall schedule and shall host at least one meeting each month for the immediately following February and March. The Secretary of State shall preside until the council elects officers designated by the bylaws. Those officers shall preside at the following meetings of such council. The Secretary of State shall serve as a facilitator at such meetings of the council through March 31 of such year as the council begins taking steps necessary to operate as a learning community.

**Source:** Laws 2007, LB641, § 38; Laws 2008, LB1154, § 17.

**Cross References**

**Election districts**, see sections 32-553 and 32-555.01.

**Members, election**, see section 32-546.01.

**Vacancies, how filled**, see section 32-567.

**79-2103 State Department of Education; learning community funds; distribution.**

The State Department of Education shall provide learning community funds to learning communities pursuant to this section. Learning community funds shall be distributed to each qualified learning community on or before January 30 of the school fiscal year during which the learning community is established and on or before September 15 of each school fiscal year thereafter in an amount equal to the product of the ratio of the amount appropriated for learning community funds divided by the sum of the number of formula students in all learning communities that will be established during such fiscal

year plus two times the number of formula students in all other learning communities for the calculation of state aid for member school districts for such school fiscal year multiplied by the number of such formula students in the learning community for learning communities that will be established in such school fiscal year or two times the number of such formula students for all other learning communities. It is the intent of the Legislature to appropriate for each fiscal year up to an amount equal to five hundred thousand dollars for each learning community to be established in such fiscal year plus one million dollars for each learning community that will be in the first full fiscal year for such learning community in such fiscal year plus the amount appropriated in the prior year for all other learning communities increased by the basic allowable growth rate described in section 79-1025.

**Source:** Laws 2006, LB 1024, § 105; Laws 2007, LB641, § 39.

**79-2104 Learning community coordinating council; powers.**

A learning community coordinating council shall have the authority to:

(1) For fiscal years prior to fiscal year 2017-18, levy a common levy for the general funds of member school districts pursuant to sections 77-3442 and 79-1073;

(2) Levy for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and for up to fifty percent of the estimated cost for focus school or program capital projects approved by the learning community coordinating council pursuant to subdivision (2)(f) of section 77-3442 and section 79-2111;

(3) Levy for early childhood education programs for children in poverty, for elementary learning center employees, for contracts with other entities or individuals who are not employees of the learning community for elementary learning center programs and services, and for pilot projects pursuant to subdivision (2)(g) of section 77-3442, except that not more than ten percent of such levy may be used for elementary learning center employees;

(4) Develop, submit, administer, and evaluate community achievement plans in collaboration with the advisory committee, educational service units serving member school districts, member school districts, and the student achievement coordinator or other department staff designated by the Commissioner of Education;

(5) Collect, analyze, and report data and information, including, but not limited to, information provided by a school district pursuant to subsection (5) of section 79-201;

(6) Approve focus schools and focus programs to be operated by member school districts;

(7) Adopt, approve, and implement a diversity plan pursuant to sections 79-2110 and 79-2118;

(8) Through school year 2016-17, administer the open enrollment provisions in section 79-2110 for the learning community as part of a diversity plan developed by the council to provide educational opportunities which will result in increased diversity in schools across the learning community;

(9) Annually conduct school fairs to provide students and parents the opportunity to explore the educational opportunities available at each school in the



learning community and develop other methods for encouraging access to such information and promotional materials;

(10) Develop procedures for determining best practices for addressing student achievement barriers and for disseminating such practices within the learning community and to other school districts;

(11) Establish and administer elementary learning centers through achievement subcouncils pursuant to sections 79-2112 to 79-2114;

(12) Administer the learning community funds distributed to the learning community pursuant to section 79-2111;

(13) Establish a procedure for receiving community input and complaints regarding the learning community;

(14) Establish a procedure to assist parents, citizens, and member school districts in accessing an approved center pursuant to the Dispute Resolution Act to resolve disputes involving member school districts or the learning community. Such procedure may include payment by the learning community for some mediation services;

(15) Establish and administer pilot projects related to enhancing the academic achievement of elementary students, particularly students who face challenges in the educational environment due to factors such as poverty, limited English skills, and mobility;

(16) Provide funding to public or private entities engaged in the juvenile justice system providing pre-filing and diversion programming designed to reduce excessive absenteeism and unnecessary involvement with the juvenile justice system; and

(17) Hold public hearings at its discretion in response to issues raised by residents regarding the learning community, a member school district, and academic achievement.

**Source:** Laws 2006, LB 1024, § 106; Laws 2007, LB641, § 40; Laws 2008, LB1154, § 18; Laws 2009, LB392, § 16; Laws 2010, LB1070, § 13; Laws 2011, LB463, § 20; Laws 2013, LB585, § 3; Laws 2016, LB1067, § 61; Laws 2018, LB1081, § 17.

#### Cross References

**Dispute Resolution Act**, see section 25-2901.

#### **79-2104.01 Learning community coordinating council; advisory committee; members; duties.**

Each learning community coordinating council shall have an advisory committee composed of the superintendent from each member school district or his or her representative. The advisory committee shall:

(1) Collaborate with the learning community coordinating council on the development, implementation, and evaluation of the community achievement plan;

(2) Review proposals for focus programs, focus schools, magnet schools, and pathways;

(3) Provide recommendations for improving the learning community's diversity plan;

(4) Review results and provide recommendations to the learning community coordinating council regarding the implementation and administration of early childhood education programs for children in poverty; and

(5) Provide input to the learning community coordinating council on other issues as requested.

**Source:** Laws 2008, LB1154, § 19; Laws 2013, LB585, § 4; Laws 2016, LB1067, § 62.

**79-2104.02 Learning community coordinating council; use of funds; report.**

Each learning community coordinating council shall use any funds received pursuant to section 79-1241.03 for evaluation of programs related to the community achievement plan developed with the assistance of the student achievement coordinator or other department staff designated by the Commissioner of Education and evaluation and research regarding the progress of the learning community pursuant to plans developed by the learning community coordinating council with assistance from the Educational Service Unit Coordinating Council and adjusted on an ongoing basis. The evaluation regarding the progress of the learning community shall be conducted by one or more other entities or individuals who are not employees of the learning community and shall measure progress toward the goals and objectives of the learning community, which goals and objectives shall include reduction of excessive absenteeism of students in the member school districts of the learning community and closing academic achievement gaps based on socioeconomic status, and the effectiveness of the approaches used by the learning community or pilot project to reach such goals and objectives. Any research conducted pursuant to this section shall also be related to such goals and objectives or programs related to the community achievement plan. Each learning community shall report evaluation and research results electronically to the Education Committee of the Legislature on or before February 1 of each year.

**Source:** Laws 2010, LB1070, § 17; Laws 2011, LB333, § 16; Laws 2011, LB463, § 21; Laws 2012, LB782, § 162; Laws 2013, LB410, § 15; Laws 2016, LB1067, § 64; Laws 2018, LB1081, § 18; Laws 2021, LB528, § 46.

**79-2104.03 Advisory committee; submit plan for early childhood education programs for children in poverty; powers and duties.**

The advisory committee described in section 79-2104.01 shall submit a plan as provided in subdivision (4) of section 79-2104.01 to the learning community coordinating council for any early childhood education programs for children in poverty and the services to be provided by such programs. In developing the plan, the advisory committee shall seek input from member school districts and community resources and collaborate with such resources in order to maximize the available opportunities and resources for such programs. The advisory committee may, as part of such plan, recommend services to be provided through contract with, or grants to, school districts to provide or contract for some or all of the services. The advisory committee shall take special efforts to establish early childhood education programs for children in poverty so that such programs are readily available and accessible to children and families located in areas with a high concentration of poverty.

**Source:** Laws 2013, LB585, § 5; Laws 2016, LB1067, § 65.

**79-2104.04 Learning community coordinating council; members; duties.**

Each learning community coordinating council shall be required to select at least two members to meet with the advisory committee and learning community administrators at least twice annually to discuss the community achievement plan, results of evaluations conducted with learning community or school district funds, best practices for improving achievement, particularly for students with achievement obstacles, learning community programs, and other matters related to improving education for students within the learning community and throughout the state.

**Source:** Laws 2016, LB1067, § 63.

**79-2105 Repealed. Laws 2007, LB 641, § 54.**

**79-2106 Repealed. Laws 2007, LB 641, § 54.**

**79-2107 Repealed. Laws 2016, LB1067, § 70.**

**79-2108 Repealed. Laws 2007, LB 641, § 54.**

**79-2109 Repealed. Laws 2007, LB 641, § 54.**

**79-2110 Diversity plan; limitations; school building maximum capacity; attendance areas; school board; duties; application to attend school outside attendance area; procedure; continuing student; notice.**

(1)(a) Each diversity plan shall provide for open enrollment in all school buildings in the learning community for school years prior to school year 2017-18, subject to specific limitations necessary to bring about diverse enrollments in each school building in the learning community. Such limitations, for school buildings other than focus schools and programs other than focus programs, shall include giving preference at each school building first to siblings of students who will be enrolled as continuing students in such school building or program for the first school year for which enrollment is sought in such school building and then to students that contribute to the socioeconomic diversity of enrollment at each building and may include establishing zone limitations in which students may access several schools other than their home attendance area school. Notwithstanding the limitations necessary to bring about diversity, open enrollment shall include providing access to students who do not contribute to the socioeconomic diversity of a school building, if, subsequent to the open enrollment selection process that is subject to limitations necessary to bring about diverse enrollments, capacity remains in a school building. In such a case, students who have applied to attend such school building shall be selected to attend such school building on a random basis up to the remaining capacity of such building. A student who has otherwise been disqualified from the school building pursuant to the school district's code of conduct or related school discipline rules shall not be eligible for open enrollment pursuant to this section. Any student who attended a particular school building in the prior school year and who is seeking education in the grades offered in such school building shall be allowed to continue attending such school building as a continuing open enrollment student through school year 2016-17.

(b) To facilitate the open enrollment provisions of this subsection, each school year each member school district in a learning community shall establish a

maximum capacity for each school building under such district's control pursuant to procedures and criteria established by the State Department of Education. Each member school district shall also establish attendance areas for each school building under the district's control, except that the school board shall not establish attendance areas for focus schools or focus programs. The attendance areas shall be established such that all of the territory of the school district is within an attendance area for each grade. Students residing in a school district shall be allowed to attend a school building in such school district.

(c) For purposes of this section and sections 79-238 and 79-611, student who contributes to the socioeconomic diversity of enrollment means (i) a student who does not qualify for free or reduced-price lunches when, based upon the certification pursuant to section 79-2120, the school building the student will attend either has more students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the learning community or provides free meals to all students pursuant to the community eligibility provision or (ii) a student who qualifies for free or reduced-price lunches based on information collected from parents and guardians when, based upon the certification pursuant to section 79-2120, the school building the student will attend has fewer students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the learning community and does not provide free meals to all students pursuant to the community eligibility provision.

(2)(a) On or before March 15 of each year prior to 2017, a parent or guardian of a student residing in a member school district in a learning community may submit an application to any school district in the learning community on behalf of a student who is applying to attend a school building for the following school year that is not in an attendance area where the applicant resides or a focus school, focus program, or magnet school as such terms are defined in section 79-769. On or before April 1 of each year beginning with the year immediately following the year in which the initial coordinating council for the learning community takes office, the school district shall accept or reject such applications based on the capacity of the school building, the eligibility of the applicant for the school building or program, the number of such applicants that will be accepted for a given school building, and whether or not the applicant contributes to the socioeconomic diversity of the school or program to which he or she has applied and for which he or she is eligible. The school district shall notify such parent or guardian in writing of the acceptance or rejection.

(b) A student may not apply to attend a school building in the learning community for any grades that are offered by another school building for which the student had previously applied and been accepted pursuant to this section, absent a hardship exception as established by the individual school district. On or before September 1 of each year prior to 2017, each school district shall provide to the learning community coordinating council a complete and accurate report of all applications received, including the number of students who applied at each grade level at each building, the number of students accepted at each grade level at each building, the number of such students that contributed to the socioeconomic diversity that applied and were accepted, the number of applicants denied and the rationales for denial, and other such information as requested by the learning community coordinating council.

(3) Each diversity plan may include establishment of one or more focus schools or focus programs and the involvement of every member school district in one or more pathways across member school districts. Enrollment in each focus school or focus program shall be designed to reflect the socioeconomic diversity of the learning community as a whole. School district selection of students for focus schools or focus programs shall be on a random basis from two pools of applicants, those who qualify for free and reduced-price lunches and those who do not qualify for free and reduced-price lunches. The percentage of students selected for focus schools from the pool of applicants who qualify for free and reduced-price lunches shall be as nearly equal as possible to the percentage of the student body of the learning community who qualify for free and reduced-price lunches. The percentage of students selected for focus schools from the pool of applicants who do not qualify for free and reduced-price lunches shall be as nearly equal as possible to the percentage of the student body of the learning community who do not qualify for free and reduced-price lunches. If more capacity exists in a focus school or program than the number of applicants for such focus school or program that contribute to the socioeconomic diversity of the focus school or program, the school district shall randomly select applicants up to the number of applicants that will be accepted for such building. A student who will complete the grades offered at a focus program, focus school, or magnet school that is part of a pathway shall be allowed to attend the focus program, focus school, or magnet school offering the next grade level as part of the pathway as a continuing student. A student who completes the grades offered at a focus program, focus school, or magnet school shall be allowed to attend a school offering the next grade level in the school district responsible for the focus program, focus school, or magnet school as a continuing student. A student who attended a program or school in the school year immediately preceding the first school year for which the program or school will operate as a focus program or focus school approved by the learning community and meeting the requirements of section 79-769 and who has not completed the grades offered at the focus program or focus school shall be a continuing student in the program or school. For school year 2016-17, students attending a focus program or focus school outside of the school district shall be considered open enrollment students and, for school year 2017-18 and each school year thereafter, students attending a focus program or focus school shall be considered option enrollment students.

(4) On or before February 15 of each year, a parent or guardian of a student who is currently attending a school building or program, except a magnet school, focus school, or focus program, outside of the school district where the student resides and who will complete the grades offered at such school building prior to the following school year shall provide notice, on a form provided by the school district, to the school board of the school district containing such school building (a) for years prior to 2017, if such student will attend another school building within such district as a continuing student and which school building such student would prefer to attend or (b) for 2017 and each year thereafter, if such student will apply to enroll as an option student in another school building within such district and which school building such student would prefer to attend. On or before March 1, such school board shall provide a notice to such parent or guardian stating which school building or buildings the student shall be allowed to attend in such school district as a

continuing student or an option student for the following school year. If the student resides within the school district, the notice shall include the school building offering the grade the student will be entering for the following school year in the attendance area where the student resides. This subsection shall not apply to focus schools or programs.

(5) Prior to the beginning of school year 2017-18, a parent or guardian of a student who moves to a new residence in the learning community after April 1 may apply directly to a school board within the learning community within ninety days after moving for the student to attend a school building outside of the attendance area where the student resides. Such school board shall accept or reject such application within fifteen days after receiving the application, based on the number of applications and qualifications pursuant to subsection (2) or (3) of this section for all other students.

(6) A parent or guardian of a student who wishes to change school buildings for emergency or hardship reasons may apply directly to a school board within the learning community at any time for the student to attend a school building outside of the attendance area where the student resides. Such application shall state the emergency or hardship and shall be kept confidential by the school board. Such school board shall accept or reject such application within fifteen days after receiving the application. Applications shall only be accepted if an emergency or hardship was presented which justifies an exemption from the procedures in subsection (4) of this section based on the judgment of such school board, and such acceptance shall not exceed the number of applications that will be accepted for the school year pursuant to subsection (2) or (3) of this section for such building.

(7) Each student attending a school building in the resident school district as an open enrollment student for any part of school year 2016-17 shall be allowed to continue attending such school building without submitting an additional application unless the student has completed the grades offered in such school building or has been expelled and is disqualified pursuant to section 79-266.01.

**Source:** Laws 2006, LB 1024, § 16; Laws 2007, LB641, § 42; Laws 2008, LB1154, § 21; Laws 2009, LB62, § 6; Laws 2010, LB1070, § 14; Laws 2015, LB525, § 27; Laws 2016, LB1066, § 21; Laws 2016, LB1067, § 66; Laws 2023, LB705, § 95.

**79-2110.01 Open enrollment students; how treated; disability; transportation services.**

(1) For purposes of all duties, entitlements, and rights established by law, including special education as provided in section 79-1127, open enrollment students shall be treated as resident students of the open enrollment school district. In determining eligibility for extracurricular activities as defined in section 79-2,126, the open enrollment student shall be treated similarly to other students who transfer into the school from another public, private, denominational, or parochial school.

(2) For open enrollment students verified as having a disability as defined in section 79-1118.01, the transportation services set forth in section 79-1129 shall be provided by the open enrollment school district. The State Department of Education shall reimburse each learning community school district for special education programs provided to open enrollment students in accordance with section 79-1142. The resident school district of an open enrollment student

shall be exempted from the payment responsibility set forth in section 79-1140. For purposes of the calculation to determine reimbursement pursuant to section 79-1142, the open enrollment school district shall include the adjusted average per pupil cost as defined in section 79-1114 of the open enrollment school district.

(3) For purposes of the Tax Equity and Educational Opportunities Support Act, open enrollment students shall not be counted as formula students by the resident school district and shall be counted by the open enrollment school district.

**Source:** Laws 2010, LB1071, § 33.

**Cross References**

**Tax Equity and Educational Opportunities Support Act**, see section 79-1001.

**79-2111 Elementary learning center facilities; focus school or program capital projects; tax levy; repayment of funds; interest; waiver.**

(1) A learning community may levy a maximum levy pursuant to subdivision (2)(f) of section 77-3442 for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and for up to fifty percent of the estimated costs for focus school or program capital projects approved pursuant to this section. The proceeds from such levy shall be used for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and to reduce the bonded indebtedness required for approved projects by up to fifty percent of the estimated cost of the approved project. The funds used for reductions of bonded indebtedness shall be transferred to the school district for which the project was approved and shall be deposited in such school district's special building fund for use on such project.

(2) The learning community may approve pursuant to this section funding for capital projects which will include the purchase, construction, or remodeling of facilities for a focus school or program designed to meet the requirements of section 79-769. Such approval shall include an estimated cost for the project and shall state the amount that will be provided by the learning community for such project.

(3) If, within the ten years following receipt of the funding for a capital project pursuant to this section, a school district receiving such funding uses the facility purchased, constructed, or remodeled with such funding for purposes other than those stated to qualify for the funds, the school district shall repay such funds to the learning community with interest at the rate prescribed in section 45-104.02 accruing from the date the funds were transferred to the school district's building fund as of the last date the facility was used for such purpose as determined by the learning community coordinating council or the date that the learning community coordinating council determines that the facility will not be used for such purpose or that such facility will not be purchased, constructed, or remodeled for such purpose. Interest shall continue to accrue on outstanding balances until the repayment has been completed. The remaining terms of repayment shall be determined by the learning community coordinating council. The learning community coordinating council may waive such repayment if the facility is used for a different focus school or program for

a period of time that will result in the use of the facility for qualifying purposes for a total of at least ten years.

**Source:** Laws 2007, LB641, § 43; Laws 2008, LB1154, § 22; Laws 2010, LB1070, § 15; Laws 2016, LB1067, § 67.

**79-2112 Elementary learning center; elementary learning center executive director; qualifications; assistants and employees.**

(1) Elementary learning centers shall serve as visionary resource centers for enhancing the academic success of elementary students, particularly those students who face challenges in the educational environment due to factors such as poverty, limited English skills, and mobility. Each learning community coordinating council shall provide for a system of elementary learning centers to be administered by an elementary learning center executive director.

(2) The elementary learning center executive director shall be appointed by the learning community coordinating council. The executive director shall be a person well equipped to work with populations in poverty and to analyze effective methods for assisting and encouraging such populations to access the programs offered by elementary learning centers. The elementary learning center executive director shall receive such salary as is set by the learning community coordinating council.

(3) The elementary learning center executive director may select, appoint, and compensate as he or she sees fit, within the amount provided by the learning community coordinating council, such noncertificated assistants and noncertificated employees as he or she deems necessary to discharge the responsibilities under sections 79-2112 to 79-2114. Such assistants and employees shall be subject to the control and supervision of the elementary learning center executive director.

**Source:** Laws 2007, LB641, § 44; Laws 2010, LB1070, § 16.

**79-2113 Elementary learning center; establishment; achievement subcouncil; plan; powers and duties; location of facilities.**

(1) On or before the second June 1 immediately following the establishment of a new learning community, the learning community coordinating council shall establish at least one elementary learning center for each twenty-five elementary schools in which either at least thirty-five percent of the students attending the school who reside in the attendance area of such school qualify for free or reduced-price lunches or free meals are provided to all students pursuant to the community eligibility provision. The council shall determine how many of the initial elementary learning centers shall be located in each subcouncil district on or before September 1 immediately following the establishment of a new learning community.

(2) Each achievement subcouncil shall submit a plan to the learning community coordinating council for any elementary learning center in its subcouncil district and the services to be provided by such elementary learning center. In developing the plan, the achievement subcouncil shall seek input from community resources and collaborate with such resources in order to maximize the available opportunities and the participation of elementary students and their families. An achievement subcouncil may, as part of such plan, recommend services be provided through contracts with, or grants to, entities other than school districts to provide some or all of the services. Such entities may include



collaborative groups which may include the participation of a school district. An achievement subcouncil may also, as part of such plan, recommend that the elementary learning center serve as a clearinghouse for recommending programs provided by school districts or other entities and that the elementary learning center assist students in accessing such programs. The plans for the initial elementary learning centers shall be submitted by the achievement subcouncils to the coordinating council on or before January 1 immediately following the establishment of a new learning community.

(3) Each elementary learning center shall have at least one facility that is located in an area with a high concentration of poverty. Such facility may be owned or leased by the learning community, or the use of the facility may be donated to the learning community. Programs offered by the elementary learning center may be offered in such facility or in other facilities, including school buildings.

**Source:** Laws 2007, LB641, § 45; Laws 2008, LB1154, § 23; Laws 2009, LB392, § 17; Laws 2015, LB525, § 28.

**79-2114 Elementary learning center; services and programs; report required.**

(1) Programs offered by an elementary learning center may be accessed by any elementary-age child who resides in the learning community or any family with an elementary-age child who resides in the learning community. Services to be provided by the elementary learning center shall comply with all applicable state regulations for such services, including, but not limited to, regulations requiring certification of teachers, safety provisions, and compliance with state standards. Such programs shall be designed to enhance the academic success of elementary students and may include, but are not limited to:

- (a) Summer school, extended-school-day programs, and extended-school-year programs which may be coordinated with programs offered in the schools;
- (b) Literacy centers for providing intensive assistance to elementary-age children and their parents to work on reading skills outside of the school day;
- (c) Computer labs;
- (d) Tutors for elementary students;
- (e) Mentors for elementary students;
- (f) Services for transient students;
- (g) Attendance advocates to assist in resolving issues that contribute to truancy;
- (h) Transportation for truant students;
- (i) English classes for parents and other family members;
- (j) Health services;
- (k) Mental health services;
- (l) Child care for children of parents working on their own literacy skills or working with their children on academic skills at the center;
- (m) Nutritional services for families working on skills at the center;
- (n) Transportation for participating families;
- (o) Distribution of clothing and school supplies;
- (p) Information on other resources to assist participating families; and

(q) Interpreter services for educational needs.

(2) Each elementary learning center shall report the participation of elementary students in academic programs offered by or in collaboration with the center to the elementary schools attended by such students.

**Source:** Laws 2007, LB641, § 46.

**79-2115 Learning community funds; use; learning community coordinating council; powers and duties; pilot project; audits.**

(1) Learning community funds distributed pursuant to section 79-2103 may be used by the learning community coordinating council receiving the funds for:

(a) The administration and operation of the learning community;

(b) The administration, operations, and programs of elementary learning centers pursuant to sections 79-2112 to 79-2114;

(c) Supplements for extended hours to teachers in elementary schools in which at least thirty-five percent of the students attending the school who reside in the attendance area of such school qualify for free or reduced-price lunches and elementary schools that provide free meals to all students pursuant to the community eligibility provision;

(d) Transportation to elementary school functions for parents of elementary students who qualify for free or reduced-price lunches or who attend an elementary school that provides free meals to all students pursuant to the community eligibility provision;

(e) Up to six social workers to provide services through the elementary learning centers; and

(f) Pilot projects authorized pursuant to section 79-2104.

(2) Each learning community coordinating council shall adopt policies and procedures for granting supplements for extended hours and for providing transportation for parents if any such funds are to be used for such purposes. An example of a pilot project that could receive such funds would be a school designated as Jump Start Center focused on providing intensive literacy services for elementary students with low reading scores.

(3) Each learning community coordinating council shall provide for financial audits of elementary learning centers and pilot projects. A learning community coordinating council shall serve as the recipient of private funds donated to support any elementary learning center or pilot project receiving funds from such learning community coordinating council and shall assure that the use of such private funds is included in the financial audits required pursuant to this section.

**Source:** Laws 2007, LB641, § 47; Laws 2008, LB1154, § 24; Laws 2010, LB1070, § 18; Laws 2015, LB525, § 29.

**79-2116 Elementary learning center; employees; terms and conditions of employment.**

Terms and conditions of employment of school employees providing services for an elementary learning center shall be established by the negotiated agreement of the learning community employing such school employees to provide services. For certificated employees as defined in section 79-824, the learning

community shall be deemed to be a public employer as defined in section 48-801. Compensation paid to school employees for services provided to a learning community shall be subject to the School Employees Retirement Act unless such employee is employed by a Class V school district, in which case compensation paid such school employee shall be subject to the Class V School Employees Retirement Act.

**Source:** Laws 2007, LB641, § 48; Laws 2011, LB397, § 18.

**Cross References**

**Class V School Employees Retirement Act**, see section 79-978.01.  
**School Employees Retirement Act**, see section 79-901.

**79-2117 Learning community coordinating council; achievement subcouncil; membership; meeting; hearing; duties.**

Each learning community coordinating council shall have an achievement subcouncil for each subcouncil district. Through January 4, 2017, each achievement subcouncil shall consist of the three voting coordinating council members representing the subcouncil district plus any nonvoting coordinating council members choosing to participate who represent a school district that has territory within the subcouncil district. The voting coordinating council members shall also be the voting members on the achievement subcouncil. On and after January 5, 2017, each achievement subcouncil shall consist of the two learning community coordinating council members representing the subcouncil district. Each achievement subcouncil shall meet as necessary but shall meet and conduct a public hearing within its subcouncil district at least once each school year. Each achievement subcouncil shall:

(1) Develop a diversity plan recommendation for the territory in its subcouncil district that will provide educational opportunities which will result in increased diversity in schools in the subcouncil district;

(2) Administer elementary learning centers in cooperation with the elementary learning center executive director;

(3) Receive community input and complaints regarding the learning community and academic achievement in the subcouncil district; and

(4) Hold public hearings at its discretion in its subcouncil district in response to issues raised by residents of the subcouncil district regarding the learning community, a member school district, and academic achievement in the subcouncil district.

**Source:** Laws 2007, LB641, § 50; Laws 2008, LB1154, § 25; Laws 2009, LB392, § 18; Laws 2016, LB1067, § 68; Laws 2018, LB1081, § 19.

**79-2118 Diversity plan; contents; approval; report.**

(1) Each learning community, together with its member school districts, shall develop a diversity plan to provide educational opportunities pursuant to sections 79-769 and 79-2110 in each subcouncil district designed to attract students from diverse backgrounds, which plan may be revised from time to time. The initial diversity plan shall be completed by December 31 of the year the initial learning community coordinating council for the learning community takes office. The goal of the diversity plan shall be to increase the socioeconomic

ic diversity of enrollment at each grade level in each school building within the learning community.

(2) Each diversity plan for a learning community shall include specific provisions relating to each subcouncil district within such learning community. The specific provisions relating to each subcouncil district shall be approved by both the achievement subcouncil for such district and by the learning community coordinating council.

(3) The learning community coordinating council shall report electronically to the Education Committee of the Legislature on or before February 1 of each odd-numbered year on the diversity and changes in diversity at each grade level in each school building within the learning community and on the academic achievement for different demographic groups in each school building within the learning community.

**Source:** Laws 2007, LB641, § 51; Laws 2008, LB1154, § 26; Laws 2009, LB392, § 19; Laws 2012, LB782, § 163; Laws 2013, LB410, § 16; Laws 2021, LB528, § 47.

**79-2119 Insurance coverage; authorized.**

A learning community coordinating council may permit members of such council to participate in the learning community's hospitalization, medical, surgical, accident, sickness, or term life insurance coverage or any one or more of such coverages. A learning community coordinating council member electing to participate in the insurance program of the learning community shall pay both the employee and the employer portions of the premium for such coverage.

A learning community coordinating council which opts to permit its members to participate in insurance coverage under this section shall report quarterly at a council meeting the council members who have elected such coverage. Such a report shall be made available in the learning community office for review by the public upon request.

**Source:** Laws 2008, LB850, § 2.

**79-2120 State Department of Education; certification of students qualifying for free or reduced-price lunches.**

On or before March 1, 2009, and February 1 of each year thereafter, for purposes of determining socioeconomic diversity of enrollment as defined in section 79-2110, the State Department of Education shall certify to each learning community and each member school district the average percentage of students qualifying for free or reduced-price lunches in each school building in each member school district and in the aggregate for all school buildings in the learning community based on the most current information available to the department on the immediately preceding January 1. For purposes of this section, the average percentage of students qualifying for free or reduced-price lunches in school buildings that provide free meals to all students pursuant to the community eligibility provision shall equal the identified student percentage, multiplied by 1.6, calculated pursuant to the community eligibility provi-

sion. The State Board of Education may adopt and promulgate rules and regulations to carry out this section.

**Source:** Laws 2009, LB62, § 5; Laws 2015, LB525, § 30; Laws 2016, LB1066, § 22.

**79-2121 Plan to reduce excessive absenteeism; development and participation.**

The superintendents of any school districts that are members of a learning community shall develop and participate in a plan by August 1, 2011, to reduce excessive absenteeism including a process to share information regarding at-risk youth with the goal of improving educational outcomes, providing effective interventions that impact risk factors, and reducing unnecessary penetration deeper into the juvenile justice system. For purposes of this section, at-risk youth means children who are under the supervision of the Office of Probation Administration, are committed to the care, custody, or supervision of the Department of Health and Human Services, are otherwise involved in the juvenile justice system, or have been absent from school for more than five days per quarter or the hourly equivalent except when excused by school authorities or when a documented illness makes attendance impossible or impracticable.

**Source:** Laws 2011, LB463, § 22.

**79-2122 Community achievement plans; submission to State Department of Education; state board; approve or reject; reasons; term; report; department; duties.**

(1) Community achievement plans shall be submitted by learning community coordinating councils to the State Board of Education for approval.

(2) Community achievement plans shall be developed, in consultation with the student achievement coordinator or other department staff designated by the Commissioner of Education, by the learning community submitting the plan, the learning community advisory committee, and educational service units with member school districts that are members of the learning community.

(3) Community achievement plans and plan renewals shall be submitted to the State Department of Education for an initial review by the student achievement coordinator or other department staff designated by the commissioner on or before January 1, 2017, for community achievement plans to be implemented beginning with school year 2017-18 and on or before January 1 immediately preceding the school year when the plan or plan renewal will be implemented. The student achievement coordinator or other department staff designated by the commissioner shall return the plan or plan renewal with any suggestions or comments on or before the immediately following February 15 to allow the plan to be revised prior to submission on or before March 15 for final approval by the state board at the state board's April meeting. If the state board rejects a plan or plan renewal, the reasons for the rejection shall be included with the notice of rejection and an opportunity shall be provided to revise the plan or plan renewal and for participating collaborators to appear before the board prior to a reconsideration of approval.

(4) The state board shall not approve or renew a community achievement plan unless the plan:

(a) Receives the commitment of all member school districts to participate in the plan for the three-year plan period;

(b) Clearly describes the plan responsibilities for each participating school district, the submitting learning community, the educational service unit, and any other collaborating entities;

(c) Includes an evaluation of achievement equity and an identification of achievement barriers across the participating school districts;

(d) Relies on the collaboration of all participating districts to address achievement equity and barriers to achievement across such school districts using evidence-based methods;

(e) Aligns with plans used by participating districts for accreditation, poverty, limited English proficiency, and federal funds;

(f) Evaluates the effectiveness of the efforts to address achievement equity and barriers to achievement through the community achievement plan and through other aligned plans in an effort to determine, encourage, and promulgate best practices and the efficient use of resources;

(g) Has a high likelihood, in the opinion of the state board based on the evidence presented, of improving achievement equity and reducing the impact of barriers to achievement; and

(h) For renewals, reflects changes in the plans and the actions of the collaborators in response to evaluation results.

(5) An approved plan shall remain in effect for three years except as revised with the approval of the state board. The learning community shall submit a report on the success of the plan, evaluation results, and proposed revisions by December 1 immediately following the completion of the first two years of implementation and every three years thereafter.

(6) The department shall adopt and promulgate rules and regulations establishing procedures for plan approval and technical assistance that allow for a preliminary review and recommendations from the department prior to submission of the final plan for approval by the state board. Such procedures shall also provide for an appeal process for plans that have not been approved, which includes an opportunity to present evidence to the state board.

**Source:** Laws 2016, LB1067, § 58.

**79-2123 Annual financial report; contents; audit; failure to file annual financial report; commissioner; duties.**

(1) On or before January 31 of each year, each learning community coordinating council shall submit to the Commissioner of Education a report described as the annual financial report showing (a) the amount of money received from all sources during the year and the amount of money expended by the learning community during the year, (b) other information as necessary to fulfill the requirements of section 79-1241.03, and (c) such other information as the commissioner directs.

(2) The coordinating council of each learning community shall cause a complete and comprehensive annual audit to be made of the books, accounts, records, and affairs of the learning community. The audits shall be conducted annually, except that the Auditor of Public Accounts may determine an audit of less frequency to be appropriate, but not less than once in any three-year

period. The coordinating council of each learning community may contract with the Auditor of Public Accounts or select a licensed public accountant or certified public accountant or firm of such accountants to conduct the audit and shall be responsible for the cost of the audit pursuant to the contract. Such audit shall be conducted in the same manner as audits of county officers. The original copy of the audit shall be filed in the office of the Auditor of Public Accounts.

(3) When any learning community coordinating council fails to submit its annual financial report by January 31, the commissioner shall, after notice to the learning community and an opportunity to be heard, direct that (a) any learning community funds granted pursuant to section 79-2103 and (b) core services and technology infrastructure funds granted pursuant to section 79-1241.03 be withheld until such time as the report is received by the State Department of Education. In addition, the commissioner shall direct the county treasurer of each county with territory in such learning community to withhold all levy receipts belonging to the learning community until such time as the commissioner notifies the county treasurer of receipt of such report. The county treasurer shall withhold such money.

(4) The State Department of Education may adopt and promulgate rules and regulations to carry out the purposes of this section.

**Source:** Laws 2018, LB1081, § 1.

**ARTICLE 22**

**INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN**

Section

- 79-2201. Compact; contents.
- 79-2202. Terms, defined.
- 79-2203. Department; duties; staff support.
- 79-2204. State Council on Educational Opportunity for Military Children; created; members; terms; expenses; duties; meetings.
- 79-2205. Compact commissioner; duties.
- 79-2206. Repealed. Laws 2019, LB675, § 57.

**79-2201 Compact; contents.**

The Interstate Compact on Educational Opportunity for Military Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

Interstate Compact on Educational Opportunity for Military Children

ARTICLE I

PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or variations in entrance or age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

## ARTICLE II

### DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211.

B. "Children of military families" means school-aged children, enrolled in kindergarten through twelfth grade, in the household of an active duty member.

C. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means the period one month prior to the service members' departure from their home station on military orders through six months after return to their home station.

E. "Education records" or "educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including, but not limited to, records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means the commission that is created under Article IX of this compact, which is generally referred to as Interstate Commission.

H. "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions.



I. "Member state" means a state that has enacted this compact.

J. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other United States territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Nonmember state" means a state that has not enacted this compact.

L. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other United States territory.

P. "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through twelfth grade.

Q. "Transition" means (1) the formal and physical process of transferring from school to school or (2) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

### ARTICLE III

#### APPLICABILITY

A. Except as otherwise provided in Section B, this compact shall apply to the children of:

1. active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211;

2. members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

3. members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. inactive members of the National Guard and military reserves;
2. members of the uniformed services now retired, except as provided in Section A;
3. veterans of the uniformed services, except as provided in Section A; and
4. other United States Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

#### ARTICLE IV

##### EDUCATIONAL RECORDS AND ENROLLMENT

A. Unofficial or “hand-carried” education records -- In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records and transcripts -- Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student’s official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations -- Compacting states shall give thirty days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and first grade entrance age -- Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

#### ARTICLE V

##### PLACEMENT AND ATTENDANCE

A. Course placement -- When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes, but is not limited to, Honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

B. Educational program placement -- The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include, but are not limited to: (1) gifted and talented programs; and (2) English as a second language. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services -- (1) In compliance with the federal requirements of the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his or her current Individualized Education Program; and (2) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. 12131 to 12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility -- Local education agency administrative officials shall have flexibility in waiving course or program prerequisites, or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities -- A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

## ARTICLE VI ELIGIBILITY

### A. Eligibility for enrollment

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation -- State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

#### ARTICLE VII GRADUATION

In order to facilitate the on-time graduation of children of military families states and local education agencies shall incorporate the following procedures:

A. Waiver requirements -- Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams -- States shall accept: (1) exit or end-of-course exams required for graduation from the sending state; (2) national norm-referenced achievement tests; or (3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of Article VII, Section C shall apply.

C. Transfers during senior year -- Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Sections A and B of this Article.

#### ARTICLE VIII STATE COORDINATION

A. Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own state council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of govern-

ment, and other offices and stakeholder groups the state council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the state council.

B. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex officio members of the state council, unless either is already a full voting member of the state council.

#### ARTICLE IX

#### INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or state council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex officio, nonvoting representatives who are members of interested organizations. Such ex officio members, as defined in the bylaws, may include, but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the United States Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The United States Department of Defense, shall serve as an ex officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
2. Disclose matters specifically exempted from disclosure by federal and state statute;
3. Disclose trade secrets or commercial or financial information which is privileged or confidential;
4. Involve accusing a person of a crime, or formally censuring a person;
5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. Disclose investigative records compiled for law enforcement purposes; or
7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. Collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission or any member state.

#### ARTICLE X

##### POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

- A. To provide for dispute resolution among member states.
- B. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.
- C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.
- D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process.
- E. To establish and maintain offices which shall be located within one or more of the member states.
- F. To purchase and maintain insurance and bonds.
- G. To borrow, accept, hire, or contract for services of personnel.
- H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.
- I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.
- J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
- K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.
- L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.
- M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate education, training, and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.

Q. To establish uniform standards for the reporting, collecting, and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

#### ARTICLE XI

##### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the members present and voting, within twelve months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;
2. Establishing an executive committee and such other committees as may be necessary;
3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meeting;
5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and
7. Providing “start up” rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson’s absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and



necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, Officers, and Personnel

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including, but not limited to:

a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

b. Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

c. Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

2. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or

alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

#### ARTICLE XII

##### RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking Authority -- The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rulemaking Procedure -- Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act" of 1981, Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than thirty days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

#### ARTICLE XIII

##### OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

###### A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission.

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.

B. Default, Technical Assistance, Suspension, and Termination -- If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default.

2. Provide remedial training and specific technical assistance regarding the default.

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

5. The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.

6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

7. The defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

#### C. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

#### D. Enforcement

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The Interstate Commission, may by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

#### ARTICLE XIV

##### FINANCING OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

#### ARTICLE XV

##### MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI  
WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute, which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII  
SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII  
BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

**B. Binding Effect of the Compact**

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

**Source:** Laws 2011, LB575, § 1.

**79-2202 Terms, defined.**

For purposes of the Interstate Compact on Educational Opportunity for Military Children and sections 79-2202 to 79-2205:

(1) Council means the State Council on Educational Opportunity for Military Children;

(2) Department means the State Department of Education;

(3) Local education agency means a school district as defined in section 79-101; and

(4) State superintendent of education means the Commissioner of Education.

**Source:** Laws 2011, LB575, § 2; Laws 2019, LB675, § 53.

**79-2203 Department; duties; staff support.**

The department shall oversee and provide coordination for the state's participation in and compliance with the Interstate Compact on Educational Opportunity for Military Children. The department shall provide staff support for the council created in section 79-2204.

**Source:** Laws 2011, LB575, § 3.

**79-2204 State Council on Educational Opportunity for Military Children; created; members; terms; expenses; duties; meetings.**

(1) The State Council on Educational Opportunity for Military Children is created within the department. The council shall consist of:

(a) The following ex officio members:

(i) The Commissioner of Education;

(ii) The chairperson of the Education Committee of the Legislature, who shall serve as a nonvoting member of the council;

(iii) The compact commissioner appointed pursuant to section 79-2205; and

(iv) The military family education liaison, who shall serve as a member of the council after his or her appointment pursuant to subsection (3) of this section; and

(b) The following members appointed by the State Board of Education:

(i) The superintendent of a school district that has a high concentration of children of military families; and

(ii) A representative of a military installation located in this state.

**DIPLOMA OF HIGH SCHOOL EQUIVALENCY ASSISTANCE ACT § 79-2303**

(2) The members of the council appointed by the State Board of Education shall serve three-year terms. Vacancies in the council shall be filled in the same manner as the initial appointments. The members of the council shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

(3) The council shall have the following duties:

(a) To advise the department with regard to the state's participation in and compliance with the Interstate Compact on Educational Opportunity for Military Children; and

(b) To appoint a military family education liaison to assist families and the state in implementing the compact.

(4) When the council holds a single meeting in a calendar year, that meeting may be held by virtual conferencing as defined in section 84-1409.

**Source:** Laws 2011, LB575, § 4; Laws 2015, LB525, § 31; Laws 2020, LB381, § 97; Laws 2021, LB83, § 9.

**79-2205 Compact commissioner; duties.**

A deputy commissioner of education as designated by the Commissioner of Education shall serve as the compact commissioner and shall be responsible for administering the state's participation in the Interstate Compact on Educational Opportunity for Military Children.

**Source:** Laws 2011, LB575, § 5; Laws 2015, LB525, § 32.

**79-2206 Repealed. Laws 2019, LB675, § 57.**

**ARTICLE 23**

**DIPLOMA OF HIGH SCHOOL EQUIVALENCY ASSISTANCE ACT**

Section

79-2301. Act, how cited.

79-2302. Purpose of act.

79-2303. Terms, defined.

79-2304. Appropriations; legislative intent; use; assistance to institutions; payments.

79-2305. Institutions receiving assistance; report; contents.

79-2306. Repealed. Laws 2015, LB 519, § 41.

79-2307. Rules and regulations.

79-2308. Grants; High School Equivalency Grant Fund; created; use; investment.

**79-2301 Act, how cited.**

Sections 79-2301 to 79-2308 shall be known and may be cited as the Diploma of High School Equivalency Assistance Act.

**Source:** Laws 2013, LB366, § 1; Laws 2015, LB382, § 1.

**79-2302 Purpose of act.**

The purpose of the Diploma of High School Equivalency Assistance Act is to provide assistance to institutions which offer high school equivalency programs in order to defray the costs associated with participation in such programs.

**Source:** Laws 2013, LB366, § 2.

**79-2303 Terms, defined.**

For purposes of the Diploma of High School Equivalency Assistance Act:

(1) Fiscal year means a time period commencing on July 1 and ending on June 30 of the following year;

(2) High school equivalency program means a program which is offered by an institution and provides participants with training and examinations for a diploma of high school equivalency; and

(3) Institution means a state agency, a school district as defined in section 79-101, or a community college area as defined in section 85-1503.

**Source:** Laws 2013, LB366, § 3.

**79-2304 Appropriations; legislative intent; use; assistance to institutions; payments.**

(1) It is the intent of the Legislature to appropriate seven hundred fifty thousand dollars from the General Fund for fiscal years 2013-14 and 2014-15, and any amount determined by the Legislature for any fiscal year thereafter, to the State Department of Education. Such funds shall be used by the department to provide assistance to institutions that offer high school equivalency programs and for expanding services and programs to support the completion of the general educational development program. Each such institution shall offer to eligible individuals adult dropout recovery services, including recruitment and learning plan development, and provide proactive coaching and mentoring to such individuals, culminating in qualification for a high school diploma. For purposes of this section, eligible individuals include adults and out-of-school youths sixteen years of age or older who are not enrolled or required to be enrolled in secondary school under state law and who have not previously earned a high school diploma or diploma of high school equivalency. Assistance shall be provided based on participation in an institution's high school equivalency program as follows:

(a) Each such institution shall receive one assistance payment for each participant who enrolled in its high school equivalency program in the most recently completed fiscal year;

(b) Each such institution shall receive one assistance payment for each enrolled participant who took an initial examination for a diploma of high school equivalency in the most recently completed fiscal year; and

(c) Each such institution shall receive one assistance payment for each participant not enrolled in the institution's high school equivalency program who took the examination for a diploma of high school equivalency in the most recently completed fiscal year.

(2) An institution shall receive additional assistance for any enrolled participant who failed his or her initial examination for a diploma of high school equivalency and requires additional training and testing.

**Source:** Laws 2013, LB366, § 4; Laws 2023, LB705, § 96.

**79-2305 Institutions receiving assistance; report; contents.**

Each institution receiving assistance pursuant to section 79-2304 shall report annually to the State Department of Education. The report shall give a description of the operation of the high school equivalency program for which assistance was provided and shall include information on the following for the most recently completed fiscal year:



**DIPLOMA OF HIGH SCHOOL EQUIVALENCY ASSISTANCE ACT § 79-2308**

- (1) The number of diplomas of high school equivalency awarded pursuant to such high school equivalency program;
- (2) The number of participants in the high school equivalency program who moved successfully through the continuum of literacy skill levels offered by the program;
- (3) The number of participants completing the high school equivalency program who secured entry-level career path employment;
- (4) The number of participants completing the high school equivalency program who went on to postsecondary education or additional career training; and
- (5) The number of participants in the high school equivalency program who were Nebraska residents or enrolled in a postsecondary educational institution located in Nebraska.

**Source:** Laws 2013, LB366, § 5.

**79-2306 Repealed. Laws 2015, LB 519, § 41.**

**79-2307 Rules and regulations.**

The State Department of Education may adopt and promulgate rules and regulations to carry out the Diploma of High School Equivalency Assistance Act. Such rules and regulations shall include, but not be limited to, provisions related to the collection of information necessary to provide the assistance provided for in section 79-2304.

**Source:** Laws 2013, LB366, § 7.

**79-2308 Grants; High School Equivalency Grant Fund; created; use; investment.**

- (1) The State Department of Education shall provide for grants to any entity offering a high school equivalency program. Grants pursuant to this section shall be awarded to applicants which meet the requirements of section 79-2304.
- (2) The High School Equivalency Grant Fund is created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 2015, LB382, § 2; Laws 2023, LB705, § 97.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.  
Nebraska State Funds Investment Act, see section 72-1260.

**ARTICLE 24**

**SUPERINTENDENT PAY TRANSPARENCY ACT**

- Section
- 79-2401. Act, how cited.
  - 79-2402. School board; board of educational service unit; contract or amendment; publication; contents; contract approval; publication.
  - 79-2403. Contract or amendment; filing with State Department of Education; public posting.
  - 79-2404. Failure to file approved contract or contract amendment; Commissioner of Education; withhold funds; duties; county treasurer; duty.

Section  
79-2405. Amendments to contracts; subject to act.

**79-2401 Act, how cited.**

Sections 79-2401 to 79-2405 shall be known and may be cited as the Superintendent Pay Transparency Act.

**Source:** Laws 2014, LB470, § 2.

**79-2402 School board; board of educational service unit; contract or amendment; publication; contents; contract approval; publication.**

(1) Before the school board of any school district or the board of any educational service unit approves a proposed contract, or any proposed amendment to an existing contract, for future superintendent services to be rendered to such school district by the current superintendent or future administrator services to be rendered to such educational service unit by the current administrator, the board shall publish a copy of such proposed contract or amendment, and a reasonable estimate and description of all current and future costs to the school district or educational service unit if the proposed contract or amendment were to be approved, at least three days before the meeting of the board at which such proposed contract or amendment will be considered. Such publication shall also specify the date, time, and place of the public meeting at which the proposed contract or amendment will be considered. Electronic publication on the website of the school district or educational service unit shall satisfy the requirement of this subsection if such electronic publication is prominently displayed and allows public access to the entire proposed contract or amendment.

(2) After the school board of any school district or the board of any educational service unit approves a contract for future superintendent services to be rendered to such school district by a new superintendent or future administrator services to be rendered to such educational service unit by a new administrator, the board shall publish a copy of such contract, and a reasonable estimate and description of all current and future costs to the school district or educational service unit that will be incurred as a result of such contract, within two days after the meeting of the board at which such contract was approved. Electronic publication on the website of the school district or educational service unit shall satisfy the requirement of this subsection if such electronic publication is prominently displayed and allows public access to the entire contract.

**Source:** Laws 2014, LB470, § 3.

**79-2403 Contract or amendment; filing with State Department of Education; public posting.**

After approval of a contract, or any amendments thereto, for superintendent services or educational service unit administrator services, the approving board shall file a copy of such contract or amendment with the State Department of Education on or before the next succeeding August 1. The department shall have no duty to review such contracts or amendments but shall publicly post all such contracts or amendments received on the website of the department.

**Source:** Laws 2014, LB470, § 4.

**79-2404 Failure to file approved contract or contract amendment; Commissioner of Education; withhold funds; duties; county treasurer; duty.**

If the school board of any school district or the board of any educational service unit fails to timely file a copy of an approved contract, or contract amendment, for superintendent services or educational service unit administrator services with the State Department of Education as required in section 79-2403, the Commissioner of Education, after notice to the board president and either the superintendent or educational service unit administrator and an opportunity to be heard, shall direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act to the school district or core services and technology infrastructure funds granted pursuant to section 79-1241.03 to the educational service unit be withheld until such time as the contract or amendment is received by the department. In addition, the commissioner shall direct each county treasurer of a county with territory in the school district or educational service unit to withhold all money belonging to the school district or educational service unit until such time as the commissioner notifies such county treasurer of receipt of such contract or amendment. Each such county treasurer shall withhold such money. For school districts that are members of learning communities, a determination of school money belonging to the school district shall be based on the proportionate share of property tax receipts allocated to the school district pursuant to section 79-1073 in addition to the other property tax receipts belonging to the school district. If the board does not comply with this section prior to October 1 following the school fiscal year for which the state aid or core services and technology infrastructure funding was calculated, the funds shall revert to the General Fund. The amount of any reverted funds shall be included in data provided to the Governor, the Appropriations Committee of the Legislature, and the Education Committee of the Legislature in accordance with section 79-1031.

**Source:** Laws 2014, LB470, § 5.

**Cross References**

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

**79-2405 Amendments to contracts; subject to act.**

All amendments to a contract for superintendent services or educational service unit administrator services shall be subject to the Superintendent Pay Transparency Act, including, but not limited to, amendments involving salary increases or benefit changes.

**Source:** Laws 2014, LB470, § 6.

**ARTICLE 25****EXPANDED LEARNING OPPORTUNITY GRANT PROGRAM ACT**

## Section

- 79-2501. Act, how cited.
- 79-2502. Purpose of act.
- 79-2503. Terms, defined.
- 79-2504. Expanded Learning Opportunity Grant Program; established.
- 79-2505. Expanded Learning Opportunity Grant Program; priorities.
- 79-2506. Department; duties; proposal for grant; contents; award of grants.
- 79-2507. School district; inform nonpublic school of potential participation.
- 79-2508. Grantees; duties.

## Section

79-2509. Report.

79-2510. Expanded Learning Opportunity Grant Fund; created; use; investment; rules and regulations.

**79-2501 Act, how cited.**

Sections 79-2501 to 79-2510 shall be known and may be cited as the Expanded Learning Opportunity Grant Program Act.

**Source:** Laws 2015, LB519, § 15.

**79-2502 Purpose of act.**

The purpose of the Expanded Learning Opportunity Grant Program Act is to promote academic achievement outside of school hours in high-need school districts.

**Source:** Laws 2015, LB519, § 16.

**79-2503 Terms, defined.**

For purposes of the Expanded Learning Opportunity Grant Program Act:

(1) Community learning center has the definition found in 20 U.S.C. 7171(b)(1), as such section existed on January 1, 2015;

(2) Department means the State Department of Education;

(3) Expanded learning opportunity program means a school-community partnership that provides participating elementary-age and secondary-age students and their families with programming and other support activities and services after school and on weekends, holidays, and other hours when school is not in session through a mix of programs and services that (a) complement but do not duplicate elementary and secondary school day learning and (b) create opportunities to strengthen school-community partnerships that provide students and their families with the support they need to be successful in school; and

(4) High-need school district means a school district in which forty percent or more of the enrolled students qualify for free and reduced price meals under the National School Lunch Program, 7 C.F.R. part 210, as such regulations existed on January 1, 2015.

**Source:** Laws 2015, LB519, § 17.

**79-2504 Expanded Learning Opportunity Grant Program; established.**

The department shall establish and administer the Expanded Learning Opportunity Grant Program. The grant program shall provide grants to community-based organizations working in partnership with schools in high-need school districts to provide expanded learning opportunity programs.

**Source:** Laws 2015, LB519, § 18.

**79-2505 Expanded Learning Opportunity Grant Program; priorities.**

The first priority of the Expanded Learning Opportunity Grant Program is to continue existing 21st Century Community Learning Centers funded by the federal 21st Century Community Learning Center program pursuant to 20 U.S.C. 7171 et seq., as such sections existed on January 1, 2015, in high-need school districts that have a record of success. The second priority shall be

support for new expanded learning opportunity program development in areas of the state with a high percentage of at-risk children that are not currently served by school-based or school-linked expanded learning opportunity programs funded by the federal 21st Century Community Learning Center program pursuant to 20 U.S.C. 7171 et seq., as such sections existed on January 1, 2015.

**Source:** Laws 2015, LB519, § 19.

**79-2506 Department; duties; proposal for grant; contents; award of grants.**

(1) The department shall establish an application process and timeline pursuant to which partner organizations may submit proposals for a grant under the Expanded Learning Opportunity Grant Program. Each proposal shall include:

- (a) A grant planning period;
- (b) An agreement to participate in periodic evaluations of the expanded learning opportunity program, to be specified by the department;
- (c) Evidence that the proposed expanded learning opportunity program will be coordinated or contracted with existing programs;
- (d) A plan to coordinate and use a combination of local, state, philanthropic, and federal funding sources, including, but not limited to, funding available through the federal No Child Left Behind Act of 2001, 20 U.S.C. 6301 et seq., as such act and sections existed on January 1, 2015, funds allocated pursuant to section 79-3501, and funds from any other source designated or appropriated for purposes of the program. Funding provided by the Expanded Learning Opportunity Grant Program shall be matched on a one-to-one basis by community or partner contributions;
- (e) A plan to use sliding-fee scales and the funding sources included in subdivision (d) of this subsection;
- (f) An advisory body which includes families and community members;
- (g) Appropriately qualified staff;
- (h) An appropriate child-to-staff ratio;
- (i) Compliance with minimum health and safety standards;
- (j) A strong family development and support component, recognizing the central role of parents in their children's development; and
- (k) Developmentally and culturally appropriate practices and assessments.

(2) The proposal shall demonstrate how the expanded learning opportunity program will provide participating students with academic enrichment and expanded learning opportunities that are high quality, based on proven methods, if appropriate, and designed to complement students' regular academic programs. Such activities shall include two or more of the following:

- (a) Core education subjects of reading, writing, mathematics, and science;
- (b) Academic enrichment learning programs, including provision of additional assistance to students to allow the students to improve their academic achievement;
- (c) Science, technology, engineering, and mathematics (STEM) education;
- (d) Sign language, foreign language, and social studies instruction;
- (e) Remedial education activities;

- (f) Tutoring services, including, but not limited to, tutoring services provided by senior citizen volunteers;
- (g) Arts and music education;
- (h) Entrepreneurial education programs;
- (i) Telecommunications and technology education programs;
- (j) Programs for English language learners that emphasize language skills and academic achievement;
- (k) Mentoring programs;
- (l) Recreational activities;
- (m) Expanded library service hours;
- (n) Programs that provide assistance to students who have been truant, suspended, or expelled to allow such students to improve their academic achievement;
- (o) Drug abuse prevention and violence prevention programs;
- (p) Character education programs;
- (q) Health and nutritional services;
- (r) Behavioral health counseling services; and
- (s) Programs that promote parental involvement and family literacy.

(3) A proposal shall: (a) Demonstrate specifically how its activities are expected to improve student academic achievement; (b) demonstrate that its activities will be provided by organizations in partnership with the school that have experience or the promise of success in providing educational and related activities that will complement and enhance the academic performance, achievement, and positive development of the students; and (c) demonstrate that the expanded learning opportunity program aligns with the school district learning objectives and behavioral codes. Nothing in this subsection shall be construed to require an expanded learning opportunity program to provide academic services in specific subject areas.

(4) The department shall make an effort to fund expanded learning opportunity programs in both rural and urban areas of the state. The department shall award grants to proposals that offer a broad array of services, programs, and activities.

**Source:** Laws 2015, LB519, § 20; Laws 2023, LB705, § 98.

**79-2507 School district; inform nonpublic school of potential participation.**

A school district participating in an expanded learning opportunity program shall inform an authorized representative or designee of each nonpublic school geographically located within each public school building's attendance area regarding potential participation in an expanded learning opportunity program.

**Source:** Laws 2015, LB519, § 21.

**79-2508 Grantees; duties.**

Grantees receiving funds pursuant to the Expanded Learning Opportunity Grant Program shall cooperate with evaluators and supervise the administration and collection of student, teacher, parent, and collaboration surveys. Grantees shall also designate a qualified evaluation professional or local evalua-

tion support to ensure data collection, perform annual self-assessments, monitor program progress, and assist in developing local evaluation reports.

**Source:** Laws 2015, LB519, § 22.

**79-2509 Report.**

The department shall provide a report evaluating the expanded learning opportunity programs to the Legislature by January 1 of each odd-numbered year. The report submitted to the Legislature shall be submitted electronically.

**Source:** Laws 2015, LB519, § 23.

**79-2510 Expanded Learning Opportunity Grant Fund; created; use; investment; rules and regulations.**

(1) The Expanded Learning Opportunity Grant Fund is created. The fund shall be administered by the department and shall consist of transfers pursuant to section 79-3501, repayments of grant funds, and interest payments received in the course of administering the Expanded Learning Opportunity Grant Program Act. The fund shall be used to carry out the Expanded Learning Opportunity Grant Program Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The State Board of Education, in consultation with the department, may adopt and promulgate rules and regulations to carry out the Expanded Learning Opportunity Grant Program Act.

**Source:** Laws 2015, LB519, § 24; Laws 2023, LB705, § 99.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

**ARTICLE 26**

**NEBRASKA READING IMPROVEMENT ACT**

**Section**

- 79-2601. Act, how cited.
- 79-2602. Legislative intent.
- 79-2603. Approved reading assessment; school district administer.
- 79-2604. Reading deficiency; identification.
- 79-2605. Supplemental reading intervention program; school district; duties.
- 79-2606. Notification to parent or guardian; individualized reading improvement plan.
- 79-2607. State Department of Education; professional learning system; regional coaches; powers and duties; rules and regulations.

**79-2601 Act, how cited.**

Sections 79-2601 to 79-2607 shall be known and may be cited as the Nebraska Reading Improvement Act.

**Source:** Laws 2018, LB1081, § 20.

**79-2602 Legislative intent.**

It is the intent of the Legislature that:

(1) School boards develop policies to facilitate reading instruction and intervention services to address student reading needs, including, but not limited to, dyslexia;

(2) All teachers for kindergarten through grade three should be effective reading teachers as evidenced by (a) evaluations based on classroom observations and student improvement on reading assessments or (b) specialized training in reading improvement;

(3) Each student and his or her parents or guardians be informed of the student's reading progress; and

(4) Each student in a public school be able to read at or above grade level by third grade.

**Source:** Laws 2018, LB1081, § 21.

**79-2603 Approved reading assessment; school district administer.**

(1) Each school district shall administer an approved reading assessment three times during the school year to all students in kindergarten through grade three, except for any student receiving specialized instruction for limited English proficiency who has been receiving such instruction for less than two years, any student receiving special education services for whom such assessment would conflict with the individualized education plan, and any student receiving services under a plan pursuant to the requirements of section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. 794, or Title II of the federal Americans with Disabilities Act of 1990, 42 U.S.C. 12131 to 12165, as such acts and sections existed on January 1, 2021, for whom such assessment would conflict with such section 504 or Title II plan. The first administration of such assessment for kindergarten students shall occur within the first forty-five calendar days that school is in session of each school year and for all other grades within the first thirty calendar days that school is in session of each school year.

(2) For purposes of the Nebraska Reading Improvement Act, an approved reading assessment means an assessment of student reading skills approved by the State Department of Education which:

(a) Measures progress toward proficiency in the reading skills assessed pursuant to subsection (5) of section 79-760.03 on the statewide assessment of reading for grade three;

(b) Is valid and reliable;

(c) Is aligned with academic content standards for reading adopted by either the State Board of Education pursuant to section 79-760.01 or the school district administering such assessment pursuant to section 79-760.02;

(d) Allows teachers access to results in a reasonable time period as established by the department, not to exceed fifteen contract days; and

(e) Is commercially available and complies with requirements established by the department.

(3) On or before March 1, 2019, and on or before each March 1 thereafter, the department shall make public the list of approved reading assessments for the subsequent school year and the threshold level of performance for each such assessment. A student performing below the threshold level shall be identified as having a reading deficiency for purposes of the Nebraska Reading Improvement Act.



(4) Diagnostic assessments used within a supplemental reading intervention program do not require department approval.

**Source:** Laws 2018, LB1081, § 22; Laws 2021, LB528, § 48.

**79-2604 Reading deficiency; identification.**

(1) Any student in kindergarten, grade one, grade two, or grade three shall be identified as having a reading deficiency if such student performs below the threshold level determined pursuant to section 79-2603 on an approved reading assessment. A student who is identified as having a reading deficiency pursuant to this subsection shall remain identified as having a reading deficiency until the student performs at or above the threshold level on an approved reading assessment.

(2) Nothing in the Nebraska Reading Improvement Act shall prohibit a school district from identifying any other student as having a reading deficiency.

**Source:** Laws 2018, LB1081, § 23.

**79-2605 Supplemental reading intervention program; school district; duties.**

(1) Each school district shall provide a supplemental reading intervention program for the purpose of ensuring that students can read at or above grade level at the end of third grade. School districts may work collaboratively with a reading specialist at the State Department of Education, with educational service units, with learning communities, or through interlocal agreements to develop and provide such supplemental reading intervention programs. Each supplemental reading intervention program shall be:

(a) Provided to any student identified as having a reading deficiency;

(b) Implemented during regular school hours in addition to regularly scheduled reading instruction unless otherwise agreed to by a parent or guardian; and

(c) Made available as a summer reading program between each school year for any student who has been enrolled in grade one, grade two, or grade three or in a higher grade and is identified as continuing to have a reading deficiency at the conclusion of the school year preceding such summer reading program. Such summer reading program may be (i) held in conjunction with existing summer programs in the school district, (ii) held in a community reading program not affiliated with the school district, or (iii) offered online.

(2) The supplemental reading intervention program may also include:

(a) Reading intervention practices that are evidence-based;

(b) Diagnostic assessments to identify specific skill-based strengths and weaknesses a student may have;

(c) Frequent monitoring of student progress throughout the school year with instruction adjusted accordingly;

(d) Intensive intervention using strategies selected from the following list to match the weaknesses identified in the diagnostic assessment:

(i) Development in phonemic awareness, phonics, fluency, vocabulary, and reading comprehension;

(ii) Explicit and systematic instruction with detailed explanations, extensive opportunities for guided practice, and opportunities for error corrections and feedback; or

(iii) Daily targeted individual or small-group reading intervention based on student needs as determined by diagnostic assessment data subject to planned extracurricular school activities;

(e) Strategies and resources to assist with reading skills at home, including parent-training workshops and suggestions for parent-guided home reading; or

(f) Access to before-school or after-school supplemental reading intervention with a teacher or tutor who has specialized training in reading intervention.

**Source:** Laws 2018, LB1081, § 24; Laws 2021, LB528, § 49.

**79-2606 Notification to parent or guardian; individualized reading improvement plan.**

(1) The school of any student who is identified as having a reading deficiency shall notify such student's parents or guardians either in writing or by electronic communication no later than fifteen working days after the identification of the reading deficiency that the student has been identified as having a reading deficiency and that an individualized reading improvement plan will be established and shared with the parents or guardians.

(2) Any student who is identified as having a reading deficiency shall receive an individualized reading improvement plan, which shall include a supplemental reading intervention program, no later than thirty days after the identification of such reading deficiency. The reading improvement plan may be created by the teacher, the principal, other pertinent school personnel, and the parents or guardians of the student and shall describe the reading intervention services the student will receive through the supplemental reading intervention program pursuant to section 79-2605 to remedy such reading deficiency. Each such student shall receive reading intervention services through the supplemental reading intervention program pursuant to section 79-2605 until the student is no longer identified as having a reading deficiency.

**Source:** Laws 2018, LB1081, § 25; Laws 2021, LB528, § 50.

**79-2607 State Department of Education; professional learning system; regional coaches; powers and duties; rules and regulations.**

(1) For purposes of this section:

(a) Evidence-based reading instruction means instruction in reading that is in alignment with scientifically based reading research and does not include the three-cueing system model of reading instruction; and

(b) Three-cueing system model of reading instruction is an approach to foundational skills instruction that involves the use of three different types of instructional cues which include semantic, syntactic, and graphophonic.

(2)(a) The State Department of Education shall develop and implement a professional learning system to help provide sustained professional learning and training regarding evidence-based reading instruction for teachers who teach children from four years of age through third grade at an approved or accredited school and teachers employed by an early childhood education program approved by the State Board of Education. The professional learning system shall include information and tips for teachers related to helping children and families work with local family literacy centers to strengthen home and family literacy programs and better instruct children in reading.

(b) Approved or accredited elementary schools and early childhood education programs approved by the State Board of Education shall ensure that teachers who teach children from four years of age through third grade are aware of the professional learning system and are adequately trained regarding evidence-based reading instruction to effectively instruct students in reading.

(3) The State Department of Education shall work with educational service units to provide regional coaches to approved or accredited elementary schools to provide assistance and job-embedded training relating to evidence-based reading instruction to teachers who teach students in kindergarten through third grade.

(4) On or before September 30 of each year, the Commissioner of Education shall file a report electronically with the Clerk of the Legislature relating to the status and use of the professional learning system implemented pursuant to this section.

(5) It is the intent of the Legislature to appropriate two million dollars from the Education Future Fund for each fiscal year beginning with fiscal year 2024-25 through fiscal year 2026-27 to the State Department of Education to provide regional coaches and job-embedded training relating to evidence-based reading instruction pursuant to subsection (2) or (3) of this section.

(6) The State Department of Education may provide technical assistance as needed to assist school boards in carrying out the Nebraska Reading Improvement Act.

(7) The department may adopt and promulgate rules and regulations to carry out the act.

**Source:** Laws 2018, LB1081, § 26; Laws 2024, LB1284, § 13.  
Operative date July 19, 2024.

**ARTICLE 27**

**SCHOOL RESOURCE OFFICERS AND SECURITY GUARDS**

Section

- 79-2701. Legislative findings and declarations.
- 79-2702. Terms, defined.
- 79-2703. Model memorandum of understanding; department; develop and distribute; school district; superintendent; duties.
- 79-2704. Memorandum of understanding; contents.

**79-2701 Legislative findings and declarations.**

The Legislature finds and declares that:

- (1) Our public school children, faculty, and staff are entitled to be safe in schools when they attend school and study or work;
- (2) Schools have an interest in keeping students safe;
- (3) The interest of schools in keeping students safe may include the presence of school resource officers or security guards if a school district determines such resources are necessary to keep schools safe;
- (4) Parents and guardians of students have a vested interest in being informed of school discipline matters involving their children and to be notified as soon as possible if their children are contacted in response to a possible law violation, questioned, searched, cited, or arrested by a peace officer working with school officials;

(5) A comprehensive and clear memorandum of understanding between law enforcement and school officials will delineate the roles and responsibilities of school resource officers, security guards, and school officials to balance the interests of safety for students and school staff in relation to parental rights, student success, and family integrity, with the goal that an increased law enforcement presence at schools will not result in a disparate impact on students in federally identified demographic categories; and

(6) Schools have a duty to respond to and manage disciplinary issues. The primary role of school resource officers and security officers should be to enhance safety with the understanding that school resource officers also work to prevent and respond to law violations and serve as a community resource for students, parents, and school staff.

**Source:** Laws 2019, LB390, § 1.

**79-2702 Terms, defined.**

For purposes of sections 79-2701 to 79-2704, unless the context otherwise requires:

- (1) Department means the State Department of Education;
- (2) Law enforcement agency means an agency or department of this state or of any political subdivision of this state that is responsible for the prevention and detection of crime, the enforcement of the penal, traffic, or highway laws of this state or any political subdivision of this state, and the enforcement of arrest warrants. Law enforcement agency includes a police department, an office of a town marshal, an office of a county sheriff, the Nebraska State Patrol, and any department to which a deputy state sheriff is assigned as provided in section 84-106;
- (3) Peace officer has the same meaning as in section 28-109;
- (4) School resource officer means any peace officer who is assigned, as his or her primary duty, to any school district to provide law enforcement and security services to any public elementary or secondary school and does not mean a peace officer responding to a call for service, providing proactive enforcement, providing law enforcement or traffic direction for a school-related event, or providing temporary services as a school resource officer when the assigned school resource officer is not available;
- (5) Security agency means a contractor that employs security guards used by a school district; and
- (6) Security guard means a person who is contracted or employed by a security agency to protect buildings and people and who does not have law enforcement authority or the power to arrest under any apparent authority in the jurisdiction where such person is contracted or employed as a security guard. A security guard may be an off-duty peace officer.

**Source:** Laws 2019, LB390, § 2.

**79-2703 Model memorandum of understanding; department; develop and distribute; school district; superintendent; duties.**

- (1) On or before December 1, 2019, the department shall develop and distribute a model memorandum of understanding that includes the policies required by section 79-2704. Any law enforcement agency or security agency required to adopt a memorandum of understanding with a school district

pursuant to this section that has not developed and adopted a different written memorandum of understanding shall adopt the model memorandum of understanding developed by the department.

(2) On and after January 1, 2021, any law enforcement agency which provides school resource officers and any security agency which provides security guards to schools in a school district shall have in effect the model memorandum of understanding or a different written memorandum of understanding with such school district as adopted by such law enforcement agency or security agency. Such different written memorandum of understanding shall be substantially similar to the model memorandum of understanding, shall include provisions in conformance with the minimum standards set forth in the model memorandum of understanding, and may include any other procedures and provisions the school district and the law enforcement agency or security agency mutually deem appropriate.

(3) The superintendent of a school district required to adopt a memorandum of understanding under this section shall, within three months after its adoption, provide a copy of such memorandum of understanding to the department or publicly post such memorandum of understanding on the school district website.

(4) On or before January 1, 2021, and each January 1 thereafter, when any school district required to adopt a memorandum of understanding under this section has made any change to its memorandum of understanding, in conjunction with the law enforcement agency or security agency, in the preceding year, the superintendent of such school district shall provide an updated copy of such memorandum of understanding to the department or publicly post such memorandum of understanding on the school district website.

**Source:** Laws 2019, LB390, § 3.

#### **79-2704 Memorandum of understanding; contents.**

Each memorandum of understanding required by section 79-2703 shall govern the use of school resource officers or security guards and shall include, but not be limited to, policies that:

(1) Require each school resource officer or security guard to attend a minimum of twenty hours of training focused on school-based law enforcement, including, but not limited to, coursework focused on school law, student rights, understanding special needs students and students with disabilities, conflict de-escalation techniques, ethics for school resource officers, teenage brain development, adolescent behavior, implicit bias training, diversity and cultural awareness, trauma-informed responses, and preventing violence in school settings;

(2) Require a minimum of one administrator in each elementary or secondary school where a school resource officer or security guard is assigned to attend a minimum of twenty hours of training focused on school-based law enforcement, including, but not limited to, coursework focused on school law, student rights, understanding special needs students and students with disabilities, conflict de-escalation techniques, ethics for school resource officers and security guards, teenage brain development, adolescent behavior, implicit bias training, diversity and cultural awareness, trauma-informed responses, and preventing violence in school settings;

(3) Ensure records are kept on each student referral for prosecution from a school resource officer in response to an incident occurring at school, on school grounds, or at a school-sponsored event and ensure that such records allow for analysis of related data and delineate:

(a) The reason for such referral; and

(b) Federally identified demographic characteristics of such student;

(4) Identify school policies that address when a parent or guardian will be notified or present, in a language that such parent or guardian understands, if a student is subjected to questioning or interrogation by a school official or by a school resource officer or security guard operating in conjunction with a school official;

(5) Identify the school or law enforcement agency policies that address under what circumstances a student will be advised of constitutional rights prior to being questioned or interrogated by a school official or by a school resource officer or security guard operating in conjunction with a school official;

(6) Identify the school policy required by section 79-262 that addresses the type or category of student conduct or actions that will be referred to law enforcement for prosecution and the type of student conduct or actions that will be resolved as a disciplinary matter by a school official and not subject to referral to law enforcement; and

(7) Identify a student and parent complaint process to express a concern or file a complaint about a school resource officer or security guard and the practices of such school resource officer or security guard with the law enforcement agency or security agency.

**Source:** Laws 2019, LB390, § 4.

## ARTICLE 28

### PURPLE STAR SCHOOLS ACT

#### Section

79-2801. Act, how cited.

79-2802. Terms, defined.

79-2803. Purple star school; annual designation; qualifications.

79-2804. Rules and regulations.

#### **79-2801 Act, how cited.**

Sections 79-2801 to 79-2804 shall be known and may be cited as the Purple Star Schools Act.

**Source:** Laws 2021, LB5, § 1.

#### **79-2802 Terms, defined.**

For purposes of the Purple Star Schools Act:

(1) Military-connected student means a student who:

(a) Is a dependent of a current or former member or reserve member serving in the Nebraska National Guard or the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Space Force; or

(b) Was a dependent of a member or reserve member who served in the Nebraska National Guard or the United States Army, Navy, Air Force, Marine

Corps, Coast Guard, or Space Force who was killed in the line of duty during such service; and

(2) School means any public, private, denominational, or parochial school in this state.

**Source:** Laws 2021, LB5, § 2.

**79-2803 Purple star school; annual designation; qualifications.**

(1) The State Board of Education may annually designate any school as a purple star school if such school applies for such designation in the manner prescribed by the board and meets the qualifications in subsection (2) of this section.

(2) To qualify as a purple star school, a school shall:

(a) Designate a staff member as a military liaison, whose duties shall include, but not be limited to:

(i) Identifying military-connected students enrolled in the school;

(ii) Serving as a point of contact in the school for military-connected students and their families;

(iii) Determining the appropriate school services available to military-connected students; and

(iv) Assisting in the coordination of school programs relevant to military-connected students;

(b) Maintain an easily accessible web page on the school's website that includes resources for military-connected students and their families, including information regarding:

(i) Relocation to, enrollment at, registration at, and transferring records to the school;

(ii) Academic planning, course sequences, and advanced classes available at the school;

(iii) Counseling and other support services available for military-connected students enrolled at the school; and

(iv) Contact information for the military liaison designated under subdivision (2)(a) of this section and the duties of the military liaison under such subdivision;

(c) Maintain a transition program led by students, where appropriate, that assists military-connected students in transitioning into the school;

(d) Offer professional development for staff members on issues related to military-connected students; and

(e) Do at least one of the following:

(i) Post a resolution showing support for military-connected students and their families on the school's website;

(ii) Recognize April as the Military Child Month or November as Military Family Month with relevant events hosted by the school; or

(iii) Partner with a local military installation that provides opportunities for active duty military members to volunteer at the school, speak at an assembly, or host field trips for students.

(3) A public school may partner with its school district to comply with requirements under subdivision (2)(b), (d), or (e) of this section.

**Source:** Laws 2021, LB5, § 3.

**79-2804 Rules and regulations.**

The State Board of Education may adopt and promulgate rules and regulations to carry out the Purple Star Schools Act.

**Source:** Laws 2021, LB5, § 4.

**ARTICLE 29**

**NEBRASKA FARM-TO-SCHOOL PROGRAM ACT**

Section

79-2901. Act, how cited.

79-2902. Terms, defined.

79-2903. Farm-to-school program; established.

79-2904. Farm-to-school program; purpose; activities.

79-2905. State Department of Education; employ coordinator; duties.

79-2906. Department of Agriculture; State Department of Education; cooperation.

79-2907. Funding; legislative intent.

**79-2901 Act, how cited.**

Sections 79-2901 to 79-2907 shall be known and may be cited as the Nebraska Farm-to-School Program Act.

**Source:** Laws 2021, LB396, § 1.

**79-2902 Terms, defined.**

For purposes of the Nebraska Farm-to-School Program Act:

(1) Early childhood education program has the same meaning as in section 79-1101 and includes programs licensed under the Child Care Licensing Act;

(2) Food means an agricultural commodity or product, whether raw or processed, that is produced and marketed for human consumption;

(3) Program means the Nebraska farm-to-school program as established in section 79-2903; and

(4) School means (a) an elementary or secondary public school and (b) an elementary or secondary nonpublic school.

**Source:** Laws 2021, LB396, § 2; Laws 2022, LB758, § 1.

**Cross References**

*Child Care Licensing Act*, see section 71-1908.

**79-2903 Farm-to-school program; established.**

A Nebraska farm-to-school program is established to be administered on a statewide basis by the State Department of Education.

**Source:** Laws 2021, LB396, § 3.

**79-2904 Farm-to-school program; purpose; activities.**

(1) The program shall provide for the purchase of locally and regionally produced or processed food in order to improve child nutrition and strengthen local and regional farm economies.



(2) The program shall link early childhood education programs and schools in this state with Nebraska farms in a manner that provides early childhood education programs and schools with fresh and minimally processed food for inclusion in meals and snacks in early childhood education programs and schools, encourages children to develop healthy eating habits, and improves the incomes of Nebraska farmers who will enjoy direct access to consumer markets.

(3) The program may include activities that provide students with hands-on learning opportunities, including, but not limited to, farm visits, cooking demonstrations, and school gardening and composting programs, and that integrate nutrition and agricultural education into the school curricula.

**Source:** Laws 2021, LB396, § 4; Laws 2022, LB758, § 2.

**79-2905 State Department of Education; employ coordinator; duties.**

The State Department of Education shall employ a coordinator to administer the program. The duties of such coordinator shall include:

(1) Identifying and promoting the critical ways for local communities to participate in the program and advise communities on needed strategies, plans, and action to administer the program;

(2) Establishing a partnership with public agencies and nonprofit organizations to implement a public engagement campaign and establish a structure to facilitate communication between farmers and schools;

(3) Providing leadership at the state level to encourage schools to develop and improve school nutrition plans using locally or regionally grown or locally or regionally processed food;

(4) Conducting workshops and training sessions and providing technical assistance to school food services, farmers, processors, and distributors regarding the demand for and the availability of Nebraska food products, and assisting persons seeking to participate in the program;

(5) Providing information regarding the program in an electronic format on the websites for the State Department of Education and the Department of Agriculture; and

(6) Seeking financial or in-kind contributions to support the program.

**Source:** Laws 2021, LB396, § 5.

**79-2906 Department of Agriculture; State Department of Education; cooperation.**

The Department of Agriculture and the State Department of Education shall cooperate in administering the program and shall each provide professional consultation and staff support.

**Source:** Laws 2021, LB396, § 6.

**79-2907 Funding; legislative intent.**

It is the intent of the Legislature to appropriate one hundred thousand dollars from the General Fund to the State Department of Education each fiscal year. Such funds shall be used for purposes of supporting the program, including, but not limited to, salaries, support, maintenance, and miscellaneous purposes.

**Source:** Laws 2021, LB396, § 7.

ARTICLE 30

FINANCIAL LITERACY ACT

Section

- 79-3001. Act, how cited.
- 79-3002. Financial literacy, defined.
- 79-3003. Financial literacy instruction; required; high school course; requirements.
- 79-3004. Annual financial literacy status report.

**79-3001 Act, how cited.**

Sections 79-3001 to 79-3004 shall be known and may be cited as the Financial Literacy Act.

**Source:** Laws 2021, LB452, § 1.

**79-3002 Financial literacy, defined.**

For purposes of the Financial Literacy Act, financial literacy includes, but is not limited to, knowledge and skills regarding budget and financial record keeping; banking; taxes; establishing, building, maintaining, and monitoring credit; debt; savings; risk management; insurance; and investment strategies.

**Source:** Laws 2021, LB452, § 2.

**79-3003 Financial literacy instruction; required; high school course; requirements.**

Beginning with school year 2023-24, each school district, in consultation with the State Department of Education, shall include financial literacy instruction, as appropriate, in the instructional program of its elementary and middle schools and require each student attending a public school to complete at least one five-credit high school course in personal finance or financial literacy prior to graduation.

**Source:** Laws 2021, LB452, § 3; Laws 2022, LB1112, § 8.

**79-3004 Annual financial literacy status report.**

On or before December 31, 2024, and on or before December 31 of each year thereafter, in order to promote and support financial literacy education, each school district shall provide an annual financial literacy status report to its school board, including, but not limited to, student progress in financial literacy courses and other district determined measures of financial literacy progress from the previous school year.

**Source:** Laws 2021, LB452, § 4.

ARTICLE 31

SCHOOL SAFETY AND SECURITY

(a) SCHOOL SAFETY AND SECURITY REPORTING SYSTEM ACT

Section

- 79-3101. Act, how cited.
- 79-3102. Legislative findings.
- 79-3103. Terms, defined.
- 79-3104. Safe2HelpNE report line; department; duties; contact; confidentiality; report line staff; duties.
- 79-3105. Threat assessment team; training.

## Section

79-3106. Funding; legislative intent; report.

79-3107. Rules and regulations.

## (b) SECURITY-RELATED INFRASTRUCTURE PROJECTS

79-3108. Security-related infrastructure projects; competitive grant program; application; report.

79-3109. School Safety and Security Fund; created; use; investment.

## (c) MAPPING DATA

79-3110. Mapping data; school board or governing authority; policy; powers and duties; costs.

79-3111. School Emergency Response Mapping Fund; created; use; investment.

## (a) SCHOOL SAFETY AND SECURITY REPORTING SYSTEM ACT

**79-3101 Act, how cited.**

Sections 79-3101 to 79-3107 shall be known and may be cited as the School Safety and Security Reporting System Act.

**Source:** Laws 2021, LB322, § 1.

**79-3102 Legislative findings.**

The Legislature finds that the COVID-19 pandemic has impacted the health and well-being of students throughout Nebraska, resulting in the need for a scalable support system and report line to enhance the safety and well-being of students in each elementary and secondary school.

**Source:** Laws 2021, LB322, § 2.

**79-3103 Terms, defined.**

For purposes of the School Safety and Security Reporting System Act:

(1) Concerning behavior includes, but is not limited to, suicide, bullying, stalking behavior, cyber or electronic harassment, bomb threat, family violence, physical or sexual abuse, threat to property, behavior indicative of terrorism, assault or attack, inappropriate weapons use, concern about mental health or substance use, sexual exploitation or predation, and any direct or indirect threatening statement;

(2) Department means the State Department of Education or the state school security director;

(3) Mental health professional means a school psychologist, social worker, or licensed mental health professional;

(4) Report line staff means the staff of the Safe2HelpNE report line as provided in subsection (4) of section 79-3104;

(5) Safe2HelpNE report line means the reporting system established pursuant to section 79-3104;

(6) Threat assessment means an evidence-based process to reduce potential risks and incidents of violence resulting in harm to one or more persons or school property; and

(7) Threat assessment team means a school-based team of at least five members who have completed the training required pursuant to section

79-3105 and includes, but is not limited to, the principal or principal's designee, a mental health professional, and a member of the school staff.

**Source:** Laws 2021, LB322, § 3.

**79-3104 Safe2HelpNE report line; department; duties; contact; confidentiality; report line staff; duties.**

(1) The department shall establish the Safe2HelpNE report line as a state-wide, anonymous reporting system to support threat assessment teams and reduce potential risks and incidents of violence resulting in harm to self, others, or school property.

(2) The Safe2HelpNE report line shall be multi-modal to allow students, school staff, parents, and community members to anonymously report concerns and information about concerning behavior or possible harm to persons or property by telephone call, mobile application, website, or email without charge. The Safe2HelpNE report line shall be available to any public or nonpublic school that has a threat assessment team and that maintains a current list of the contact information for at least five team members designated to receive alerts from staff at any time of the day or night.

(3) Except as otherwise required by law, the identity of any individual who contacts the Safe2HelpNE report line shall be confidential and shall not be revealed.

(4) The Safe2HelpNE report line shall be staffed seven days per week and twenty-four hours per day by professionals trained to receive concerns, use de-escalation techniques to minimize law enforcement involvement, and alert the appropriate threat assessment team for review, assessment, and action to protect persons and property. The report line staff shall also be trained in threat assessment and management processes, suicide prevention, recognizing mental illness and emotional disturbance, and applicable confidentiality and privacy laws. The report line staff shall have access to clinical consultation and support seven days per week and twenty-four hours per day from a licensed mental health professional.

(5) The report line staff shall immediately alert the appropriate threat assessment team of any concern directly regarding a student, school staff member, or school property or that is likely to impact a student, school staff member, or school property. If there is an immediate life safety concern, emergency services shall be contacted prior to any threat assessment team. Each alert that is not referred to emergency services, law enforcement, or child protective services shall be assessed by the threat assessment team receiving such alert. If a threat assessment team decides a report regarding a student is credible, a representative of the school administration shall, within a reasonable period of time, attempt to notify a parent or guardian of the student except when such notification could reasonably be believed to contribute to the endangerment of the student or others. Such notification or attempted notification shall be documented in a manner prescribed by the department.

(6) The department shall track and evaluate the effectiveness and usage of the Safe2HelpNE report line. The report line staff shall report the number of calls received, disposition of calls, referrals made to threat assessment teams, and other metrics as determined by and in the manner prescribed by the department.

(7) Any information or material in the possession of the threat assessment team shall remain separate from educational records and shall be considered security records.

**Source:** Laws 2021, LB322, § 4.

**79-3105 Threat assessment team; training.**

The department shall provide training for the members of any threat assessment team serving a public or nonpublic school. Such training shall provide the knowledge and skill to allow threat assessment teams to work collaboratively to conduct threat assessments, engage in crisis intervention, increase awareness of concerning behavior among school staff, students, and the public, and interrupt violence in the planning stage to thwart potential harm to persons and property. Such training shall be reasonable in length.

**Source:** Laws 2021, LB322, § 5; Laws 2024, LB1329, § 87.  
Effective date July 19, 2024.

**79-3106 Funding; legislative intent; report.**

(1) It is the intent of the Legislature that federal funds shall be used to implement the School Safety and Security Reporting System Act for fiscal years 2021-22, 2022-23, and 2023-24. The Commissioner of Education shall electronically report data, a cost-benefit analysis, and a funding recommendation regarding the continued viability of the Safe2HelpNE report line to the Appropriations Committee of the Legislature and the Education Committee of the Legislature on or before January 5, 2024.

(2) It is the intent of the Legislature to appropriate eight hundred seventy thousand dollars from the General Fund for fiscal year 2024-25 and each fiscal year thereafter to the State Department of Education to carry out the School Safety and Security Reporting System Act.

**Source:** Laws 2021, LB322, § 6; Laws 2023, LB705, § 100.

**79-3107 Rules and regulations.**

The department may adopt and promulgate rules and regulations to carry out the School Safety and Security Reporting System Act.

**Source:** Laws 2021, LB322, § 7.

(b) SECURITY-RELATED INFRASTRUCTURE PROJECTS

**79-3108 Security-related infrastructure projects; competitive grant program; application; report.**

(1) The Commissioner of Education shall create and administer a competitive grant program to provide funding to school districts and to educational service units on behalf of approved or accredited nonpublic schools for security-related infrastructure projects. Such qualifying projects may include, but are not limited to, surveillance equipment, door-locking systems, and double-entry doors for school buildings. Subject to available appropriations, the State Department of Education shall provide a grant to any school district or educational service unit that applies for such grant for use in funding qualifying projects.

(2)(a) A school district may apply to the State Department of Education for a grant on forms and in a manner prescribed by the Commissioner of Education. A school district receiving a grant under this section shall divide the use of grant funds as evenly as possible among all eligible school buildings within such district.

(b) An educational service unit may apply to the State Department of Education for a grant on forms and in a manner prescribed by the Commissioner of Education for use in funding qualifying projects at approved or accredited nonpublic schools which contract with such educational service unit on such qualifying projects. An approved or accredited nonpublic school may apply to and contract with the appropriate educational service unit in the school's area in a manner prescribed by the educational service unit for purposes of funding qualifying projects pursuant to this section.

(3)(a) On or before December 1 of each year that grants were issued pursuant to this section, the State Department of Education shall provide a report electronically to the Clerk of the Legislature relating to such grants, which shall include, but need not be limited to:

(i) The number of schools that received grant funding, including whether a school was public or nonpublic, the grades of students served by such school, the number of students that attend such school, and the geographic location of such school;

(ii) How the grant funds were used;

(iii) The average amount of grant funds received by schools broken down by school student population size;

(iv) The number of schools that were denied grant funding and why; and

(v) Any other information the State Department of Education deems necessary.

(b) The report provided pursuant to subdivision (a) of this subsection shall not identify any particular school.

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

(5) It is the intent of the Legislature to appropriate ten million dollars from the School Safety and Security Fund to the State Department of Education to administer the grant program pursuant to this section.

**Source:** Laws 2023, LB705, § 124.

**79-3109 School Safety and Security Fund; created; use; investment.**

The School Safety and Security Fund is created. The fund shall be administered by the State Department of Education and shall consist of any money transferred by the Legislature and any gifts, grants, or bequests. The department shall use money in the fund for grants for security-related infrastructure projects pursuant to section 79-3108. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

**Source:** Laws 2023, LB705, § 125; Laws 2024, First Spec. Sess., LB3, § 30.

Effective date August 21, 2024.

## Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

## (c) MAPPING DATA

**79-3110 Mapping data; school board or governing authority; policy; powers and duties; costs.**

(1) For purposes of this section:

(a) Mapping data means maps relating to a school building or school property with data for an efficient emergency response to such school building or school property that meets the requirements of this section; and

(b) Public safety agency means a local, county, or state agency consisting of members who serve a public or governmental agency or political subdivision in an official capacity, with or without compensation, as either peace officers, firefighters, or emergency care providers as defined in section 38-1206.04.

(2)(a) A school board of a school district or a governing authority of an approved or accredited private, denominational, or parochial school in this state may vote to adopt a policy in accordance with this section to provide mapping data to public safety agencies for use in response to emergencies.

(b) A school board or a governing authority that adopts such a policy shall provide mapping data in an electronic or digital format to assist public safety agencies in responding to an emergency at a school.

(c) The mapping data shall, at a minimum, meet all of the following requirements:

(i) Be compatible with and able to be integrated into software platforms used by public safety agencies that provide emergency services to the specific school for which the data is provided without requiring:

(A) The purchase of additional software by such public safety agencies; or

(B) The integration of third-party software to view the data;

(ii) Be a finished map product in a file format easily accessible using a standard or open-source file reader, depending on the needs of the school and the public safety agency;

(iii) Be provided in a printable format;

(iv) Be verified for accuracy, during production and annually, through a walk-through of the school campus;

(v) Give an indication of what direction is true north;

(vi) Include accurate floor plans overlaid on accurate, verified aerial imagery of the school campus;

(vii) Contain site-specific labeling that matches the structure of school buildings, including room labels, hallway names, external door or stairwell numbers, locations of hazards, key utility locations, key boxes, automated external defibrillators, and trauma kits using standard labeling rules set by the State Department of Education;

(viii) Contain site-specific labeling that matches the school grounds, including parking areas, athletic fields, surrounding roads, and neighboring properties using standard labeling rules set by the State Department of Education; and

(ix) Be overlaid with a grid and coordinates.

(3) The school board of each school district and the governing authority of each approved or accredited private, denominational, or parochial school that adopts a policy in accordance with this section shall annually (a) certify to the appropriate public safety agencies that the mapping data required to be provided under subsection (2) of this section is accurate or (b) if such information has changed, provide the appropriate public safety agencies with updated mapping data.

(4) A school board of a school district that adopts a policy in accordance with this section may apply to the State Department of Education in a manner prescribed by the Commissioner of Education for a grant to cover the costs of providing payment to vendors on behalf of the school district to facilitate the implementation of mapping data in accordance with this section for such school district. Such application shall include a copy of the appropriate school policy, an estimate from a vendor on the cost of providing such mapping data that meets the requirements of subdivision (2)(c) of this section, and any other information the department may require.

(5)(a) An approved or accredited private, denominational, or parochial school may apply to and contract with the appropriate educational service unit in the school's geographical area in a manner prescribed by the educational service unit for purposes of covering the costs of facilitating mapping data in accordance with this section.

(b) An educational service unit may apply to the State Department of Education, in a manner prescribed by the Commissioner of Education, for a grant to cover the costs of providing payments to vendors on behalf of an approved or accredited private, denominational, or parochial school which contracts with such educational service unit to facilitate the implementation of mapping data in accordance with this section for such school. The educational service unit shall include with such application the information provided to the educational service unit by the school, which shall include a copy of the appropriate school policy, an estimate from a vendor on the cost of providing such mapping data that meets the requirements of subdivision (2)(c) of this section, and any other information the department may require.

(6) It is the intent of the Legislature that grants awarded pursuant to this section shall be funded from the School Emergency Response Mapping Fund.

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

**Source:** Laws 2024, LB1329, § 88.

Effective date July 19, 2024.

**79-3111 School Emergency Response Mapping Fund; created; use; investment.**

(1) The School Emergency Response Mapping Fund is created. The fund shall be administered by the State Department of Education and consist of any money transferred by the Legislature and any gifts, grants, or bequests. The department shall use the money in the fund for grants related to facilitating the implementation of mapping data in accordance with section 79-3110. Any funds available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.



(2) It is the intent of the Legislature to transfer five hundred twenty-five thousand dollars from the General Fund to the School Emergency Response Mapping Fund for fiscal year 2024-25 for the purpose of providing such grants.

**Source:** Laws 2024, LB1329, § 89.

Effective date July 19, 2024.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

**Nebraska State Funds Investment Act**, see section 72-1260.

**ARTICLE 32**

**SEIZURE SAFE SCHOOLS ACT**

**Section**

- 79-3201. Act, how cited.  
 79-3202. Seizure action plan, defined.  
 79-3203. Seizure rescue medication; medication prescribed to treat seizure disorder symptoms; school employee; training; requirements; administration; parent or guardian; authorization, statement, seizure action plan.  
 79-3204. Seizure disorder materials; review by school employees; when required.  
 79-3205. Seizure action plan; student; permission granted.  
 79-3206. School; school employee; immunity.  
 79-3207. Rules and regulations.

**79-3201 Act, how cited.**

Sections 79-3201 to 79-3207 shall be known and may be cited as the Seizure Safe Schools Act.

**Source:** Laws 2021, LB639, § 1.

**79-3202 Seizure action plan, defined.**

For purposes of the Seizure Safe Schools Act, seizure action plan means a written, individualized health plan designed to acknowledge and prepare for the health care needs of a student diagnosed with a seizure disorder.

**Source:** Laws 2021, LB639, § 2.

**79-3203 Seizure rescue medication; medication prescribed to treat seizure disorder symptoms; school employee; training; requirements; administration; parent or guardian; authorization, statement, seizure action plan.**

(1)(a) For school year 2022-23 and each school year thereafter, each approved or accredited public, private, denominational, or parochial school shall have at least one school employee at each school who has met the training requirements necessary to administer or assist with the self-administration of a seizure rescue medication or medication prescribed to treat seizure disorder symptoms as approved by the United States Food and Drug Administration.

(b) For a school employee assigned the duties under subdivision (a) of this subsection, the training shall include instruction in administering seizure medications, recognizing the signs and symptoms of seizures, and responding to such signs and symptoms with the appropriate steps.

(c) Any training programs or guidelines adopted by any state agency for the training of school employees under this subsection shall be consistent with

training programs and guidelines developed by a nationally recognized organization focused on epilepsy.

(2) Prior to the administration of a seizure rescue medication or medication prescribed to treat seizure disorder symptoms by a school employee, a student's parent or guardian shall:

(a) Provide the school with a written authorization to administer the medication at school;

(b) Provide a written statement from the student's health care practitioner containing the following information:

(i) The student's name;

(ii) The name and purpose of the medication;

(iii) The prescribed dosage;

(iv) The route of administration;

(v) The frequency that the medication may be administered; and

(vi) The circumstances under which the medication may be administered;

(c) Provide the medication to the school in its unopened, sealed package with the intact label affixed by the dispensing pharmacy; and

(d) Collaborate with school employees to create a seizure action plan.

(3)(a) The authorization, statement, and seizure action plan required in subsection (2) of this section shall be kept on file in the office of the school nurse or school administrator.

(b) Each seizure action plan shall be distributed to any school personnel or volunteers responsible for the supervision or care of the student for whom such seizure action plan was created.

(4) Any authorization provided by a parent or guardian under this section shall be effective for the school year in which it is provided and shall be renewed each following school year upon fulfilling the requirements of subsection (2) of this section.

(5) The requirements of this section shall apply only to schools that have a student enrolled who has a seizure disorder and has a seizure rescue medication or medication prescribed to treat seizure disorder symptoms.

**Source:** Laws 2021, LB639, § 3.

**79-3204 Seizure disorder materials; review by school employees; when required.**

Beginning with school year 2022-23, in addition to any other professional development and collegial planning activities for certificated school employees, each certificated school employee shall participate in a minimum of one hour of self-study review of seizure disorder materials at least once in every two school years.

**Source:** Laws 2021, LB639, § 4.

**79-3205 Seizure action plan; student; permission granted.**

If specified in a student’s seizure action plan, such student shall be permitted to possess the supplies, equipment, and medication necessary to treat a seizure disorder in accordance with such seizure action plan.

**Source:** Laws 2021, LB639, § 5.

**79-3206 School; school employee; immunity.**

(1) A school or school employee who acts in compliance with the Seizure Safe Schools Act shall not be liable for damages related to the care of a student’s seizure disorder unless such damages resulted from an act of willful or wanton misconduct by the school or school employee.

(2) A school employee shall not be subject to any disciplinary proceeding related to an act taken in compliance with the Seizure Safe Schools Act unless such action constitutes willful or wanton misconduct.

**Source:** Laws 2021, LB639, § 6.

**79-3207 Rules and regulations.**

The State Board of Education shall adopt and promulgate rules and regulations to carry out the Seizure Safe Schools Act, including, but not limited to:

- (1) Requirements for training programs for school employees;
- (2) Procedures for the development of seizure action plans; and
- (3) The content of seizure action plans.

**Source:** Laws 2021, LB639, § 7.

**ARTICLE 33**

**COMPUTER SCIENCE AND TECHNOLOGY EDUCATION ACT**

Section

- 79-3301. Act, how cited.
- 79-3302. Legislative findings and declarations.
- 79-3303. Computer science and technology education, defined.
- 79-3304. Computer science and technology education; required; high school graduation; requirements.
- 79-3305. Annual computer science and technology education status report.
- 79-3306. Statewide computer science education expansion program; State Department of Education; powers and duties.
- 79-3307. Computer Science and Technology Education Fund; created; use; investment.

**79-3301 Act, how cited.**

Sections 79-3301 to 79-3307 shall be known and may be cited as the Computer Science and Technology Education Act.

**Source:** Laws 2022, LB1112, § 1; Laws 2024, LB1284, § 14.  
Operative date July 19, 2024.

**79-3302 Legislative findings and declarations.**

The Legislature finds and declares that it is the policy of this state to promote computer science and technology education in each school district in order to (1) provide students the skills and competencies to compete in a twenty-first-century workforce, (2) develop skills that translate to high-skill, high-wage jobs, and (3) encourage the creation and retention of new, high-paying jobs in Nebraska.

**Source:** Laws 2022, LB1112, § 2.

**79-3303 Computer science and technology education, defined.**

For purposes of the Computer Science and Technology Education Act, computer science and technology education includes, but is not limited to, knowledge and skills regarding computer literacy, educational technology, digital citizenship, information technology, and computer science.

**Source:** Laws 2022, LB1112, § 3.

**79-3304 Computer science and technology education; required; high school graduation; requirements.**

Beginning with school year 2025-26, each school district shall include computer science and technology education aligned to the academic content standards adopted pursuant to section 79-760.02 in the instructional program of its elementary, middle, and high schools. Beginning in school year 2027-28, each school district shall require each student to complete at least five high school credit hours in computer science and technology education prior to graduation. Such requirement may be completed through a single course or combination of high school courses that cover the computer science and technology academic content standards, and such courses may be made available in a traditional classroom setting, a blended-learning environment, or an online-based or other technology-based format.

**Source:** Laws 2022, LB1112, § 4; Laws 2023, LB705, § 101.

**79-3305 Annual computer science and technology education status report.**

On or before December 1, 2026, and on or before December 1 of each year thereafter, in order to promote and support computer science and technology education, each school district shall provide an annual computer science and technology education status report to its school board and the State Department of Education, including, but not limited to, student progress on the computer science and technology courses and other district-determined measures of computer science and technology education progress from the previous school year.

**Source:** Laws 2022, LB1112, § 5; Laws 2023, LB705, § 102.

**79-3306 Statewide computer science education expansion program; State Department of Education; powers and duties.**

(1) The State Department of Education shall establish a statewide computer science education expansion program to recruit, train, and support teachers in computer science and technology education. Such program shall include:

(a) Training for teachers seeking supplemental computer science certification;

(b) Training designed to support the integration of computer science and technology education into the instructional programs of elementary, middle, and high schools;

(c) Support for schools and teachers in the development of computer science instructional plans that are consistent with the academic content standards for computer science and technology education adopted by the State Board of Education; and

(d) Incentive and stipend payments for teachers who meet training, certification, and teaching requirements as established by the State Board of Education.

(2) The State Department of Education shall employ or contract with computer science specialists to develop and deliver computer science educator training. Such training shall be provided in a manner so that every teacher in this state has reasonable access to the training.

(3) The State Department of Education shall annually submit a report electronically to the Governor and the Clerk of the Legislature relating to the statewide computer science education expansion program. Such report shall include:

(a) The number of training opportunities held and the format of such training;

(b) The number of teachers who received training;

(c) To the extent such information is available, the number of teachers that became certified or received an endorsement in computer science and technology education or began teaching a class in computer science and technology education within three calendar months following completion of training provided pursuant to this section; and

(d) The costs associated with such training for the fiscal year covered by the report.

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

**Source:** Laws 2024, LB1284, § 15.

Operative date July 19, 2024.

**79-3307 Computer Science and Technology Education Fund; created; use; investment.**

(1) The Computer Science and Technology Education Fund is created. The fund shall be administered by the State Department of Education and consist of money transferred by the Legislature, federal funds, and gifts, grants, bequests, or other contributions or donations from public or private entities that have been accepted by the State Board of Education. The fund shall be used to provide computer science and technology training, support, and incentive and stipend payments pursuant to section 79-3306. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Any interest earned by the fund shall accrue to the fund.

(2)(a) It is the intent of the Legislature to transfer one million dollars for fiscal year 2024-25 and one million dollars for fiscal year 2025-26 from the Education Future Fund to the Computer Science and Technology Education Fund to provide computer science and technology education training, support, and incentive and stipend payments pursuant to section 79-3306.

(b) It is the intent of the Legislature to transfer an additional five hundred thousand dollars for fiscal year 2024-25 and each fiscal year thereafter from the Education Future Fund to the Computer Science and Technology Education Fund contingent upon the receipt of matching private funds of such amount. The State Department of Education shall provide written notification to the

State Treasurer relating to the receipt of private funds that would trigger a state match.

**Source:** Laws 2024, LB1284, § 16.  
Operative date July 19, 2024.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.  
Nebraska State Funds Investment Act, see section 72-1260.

**ARTICLE 34**

**SCHOOL DISTRICT PROPERTY TAX LIMITATION ACT**

**Section**

- 79-3401. Act, how cited.
- 79-3402. Terms, defined.
- 79-3403. Property tax request authority; calculation; certification.
- 79-3404. Applicability of act.
- 79-3405. Property tax request authority; election to exceed; procedure; base growth percentage; increase; procedure.
- 79-3406. Unused property tax request authority; carry forward.
- 79-3407. Property tax request authority; unused property tax request authority; requirements; school district; failure to comply; withhold state aid.
- 79-3408. Rules and regulations.

**79-3401 Act, how cited.**

Sections 79-3401 to 79-3408 shall be known and may be cited as the School District Property Tax Limitation Act.

**Source:** Laws 2023, LB243, § 1.

**79-3402 Terms, defined.**

For purposes of the School District Property Tax Limitation Act, unless the context otherwise requires:

- (1) Approved bonds means (a) bonds that are issued by a school district after the question of issuing such bonds has been approved by the voters of such school district and (b) bonds that are issued by a school district pursuant to section 79-10,110, 79-10,110.01, or 79-10,110.02;
- (2) Average daily membership has the same meaning as in section 79-1003;
- (3) Base growth percentage means the sum of:
  - (a) Three percent;
  - (b) The annual percentage increase in the student enrollment of the school district multiplied by:
    - (i) One if the school district’s student enrollment has grown by an average of at least three percent and by at least one hundred fifty students over the preceding three years;
    - (ii) Seven-tenths if the school district’s student enrollment has grown by an average of at least three percent over the preceding three years; or
    - (iii) Four-tenths if subdivisions (3)(b)(i) and (3)(b)(ii) of this section do not apply;
  - (c) The percentage obtained by first dividing the annual increase in the total number of limited English proficiency students in the school district by the

student enrollment of the school district and then multiplying the quotient by fifteen hundredths; and

(d) The percentage obtained by first dividing the annual increase in the total number of poverty students in the school district by the student enrollment of the school district and then multiplying the quotient by fifteen hundredths;

(4) Department means the State Department of Education;

(5) Non-property-tax revenue means revenue of a school district from all state and local sources other than real and personal property taxes. Non-property-tax revenue does not include grants, donations, bonds, all revenue from a school district that has been merged into another school district or dissolved, activity funds, bond funds, cooperative funds, depreciation funds, employee benefit funds, nutrition funds, qualified capital purpose undertaking funds, or student fee funds, insurance proceeds, proceeds from the sale of property including land, buildings, or capital assets in special building funds, or proceeds of financing;

(6) Property tax request means the total amount of property taxes for the general and special building funds requested to be raised for a school district through the levy imposed pursuant to section 77-1601;

(7) Property tax request authority means the amount that may be included in a property tax request for the general or special building funds of the school district as determined pursuant to the School District Property Tax Limitation Act;

(8) School board has the same meaning as in section 79-101;

(9) School district has the same meaning as in section 79-101; and

(10) Student enrollment means the total number of students in the school district according to the fall school district membership report described in subsection (4) of section 79-528.

**Source:** Laws 2023, LB243, § 2.

**79-3403 Property tax request authority; calculation; certification.**

(1) Except as provided in sections 79-3404 and 79-3405, a school district's property tax request for any year shall not exceed the school district's property tax request authority.

(2) The department shall calculate each school district's property tax request authority on an annual basis as follows:

(a) The school district's property tax request from the prior year shall be added to the non-property-tax revenue from the prior year minus any investment income from special building funds from the prior year, and the total shall be increased by the school district's base growth percentage; and

(b) The amount determined under subdivision (2)(a) of this section shall then be decreased by the amount of total non-property-tax revenue for the current year and adjusted for any known or documented errors in documentation received by the department from the school district. In determining the total non-property-tax revenue for the current year, any category of non-property-tax revenue for which there is insufficient data as of June 1 to make an accurate determination shall be deemed to be equal to the prior year's amount.

(3) The department shall certify the amount determined for each school district under this section to the school board of such school district. Such certified amount shall be the school district's property tax request authority.

**Source:** Laws 2023, LB243, § 3.

**79-3404 Applicability of act.**

The School District Property Tax Limitation Act shall not apply to that portion of a school district's property tax request that is needed to pay the principal and interest on approved bonds.

**Source:** Laws 2023, LB243, § 4.

**79-3405 Property tax request authority; election to exceed; procedure; base growth percentage; increase; procedure.**

(1) A school district's property tax request may exceed its property tax request authority by an amount approved by a sixty percent majority of legal voters voting on the issue at a special election called for such purpose upon the recommendation of the school board of such school district or upon the receipt by the county clerk or election commissioner of a petition requesting an election signed by at least five percent of the legal voters of the school district. The recommendation of the school board or the petition of the legal voters shall include the amount by which the school board would increase its property tax request for the year over and above the property tax request authority of such school district. The county clerk or election commissioner shall call for a special election on the issue within thirty days after the receipt of such school board recommendation or legal voter petition. The election shall be held pursuant to the Election Act, and all costs shall be paid by the school district.

(2)(a) A school district may increase the base growth percentage used to determine its property tax request authority under section 79-3403 by a percentage approved by an affirmative vote of at least seventy percent of the school board of such school district. The maximum base growth percentage that may be approved under this subsection shall be:

(i) The base growth percentage that would otherwise be applicable plus an additional seven percent for school districts with an average daily membership of no more than four hundred seventy-one students;

(ii) The base growth percentage that would otherwise be applicable plus an additional six percent for school districts with an average daily membership of more than four hundred seventy-one students but no more than three thousand forty-four students;

(iii) The base growth percentage that would otherwise be applicable plus an additional five percent for school districts with an average daily membership of more than three thousand forty-four students but no more than ten thousand students; or

(iv) The base growth percentage that would otherwise be applicable plus an additional four percent for school districts with an average daily membership of more than ten thousand students.

(b) Before a school board votes to increase a school district's base growth percentage under this subsection, the school board shall publish notice of the upcoming vote in a legal newspaper of general circulation in the school district.



Such publication shall occur at least one week prior to the public meeting at which the vote will be taken.

(3) A school district's property tax request may exceed its property tax request authority pursuant to any property tax authority approved by the voters at a levy override election under section 77-3444 held prior to January 1, 2024.

**Source:** Laws 2023, LB243, § 5.

**Cross References**

**Election Act**, see section 32-101.

**79-3406 Unused property tax request authority; carry forward.**

A school district may choose not to increase its property tax request by the full amount allowed by the school district's property tax request authority in a particular year. In such cases, the school district may carry forward to future years the amount of unused property tax request authority. The department shall calculate each school district's unused property tax request authority and shall submit an accounting of such amount to the school board of the school district. Such unused property tax request authority may then be used in later years for increases in the school district's property tax request.

**Source:** Laws 2023, LB243, § 6.

**79-3407 Property tax request authority; unused property tax request authority; requirements; school district; failure to comply; withhold state aid.**

The department shall prepare documents to be submitted by school districts to aid the department in calculating each school district's property tax request authority and unused property tax request authority. Each school district shall submit such documents to the department on or before September 30 of each year. If a school district fails to submit such documents to the department or if the department determines from such documents that a school district is not complying with the limits provided in the School District Property Tax Limitation Act, the department shall notify the school district of its determination. The Commissioner of Education shall then direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the school district submits the required documents or complies with the School District Property Tax Limitation Act. The state aid shall be held for six months. If the school district complies within the six-month period, it shall receive the suspended state aid. If the school district fails to comply within the six-month period, the suspended state aid shall revert to the General Fund.

**Source:** Laws 2023, LB243, § 7.

**Cross References**

**Tax Equity and Educational Opportunities Support Act**, see section 79-1001.

**79-3408 Rules and regulations.**

The department may adopt and promulgate rules and regulations to carry out the School District Property Tax Limitation Act.

**Source:** Laws 2023, LB243, § 8.

## ARTICLE 35

## STATE LOTTERY FUNDS FOR EDUCATION

## Section

79-3501. State lottery funds for education; distribution; Nebraska Education Improvement Fund; created; use; investment; state lottery funds; reports; Auditor of Public Accounts; duties.

**79-3501 State lottery funds for education; distribution; Nebraska Education Improvement Fund; created; use; investment; state lottery funds; reports; Auditor of Public Accounts; duties.**

(1) For fiscal years through fiscal year 2023-24, the money available to be used for education pursuant to subdivision (3)(b) of section 9-812 shall be transferred to the Nebraska Education Improvement Fund.

(2) For fiscal years 2024-25 through 2028-29, the money available to be used for education pursuant to subdivision (3)(b) of section 9-812 shall be transferred as follows:

- (a) Eight percent to the Behavioral Training Cash Fund;
- (b) Two percent to the College Pathway Program Cash Fund;
- (c) Seven percent to the Community College Gap Assistance Program Fund;
- (d) Ten percent to the State Department of Education Improvement Grant Fund;
- (e) Three percent to fund distance education incentives pursuant to section 79-1337;
- (f) One percent to the Door to College Scholarship Fund;
- (g) Eight percent to the Excellence in Teaching Cash Fund;
- (h) One and one-half percent to the Expanded Learning Opportunity Grant Fund;
- (i) One and one-half percent to the Mental Health Training Cash Fund; and
- (j) Fifty-eight percent to the Nebraska Opportunity Grant Fund.

(3) For fiscal year 2029-30 and each fiscal year thereafter, the money available to be used for education pursuant to subdivision (3)(b) of section 9-812 shall be transferred as the Legislature may direct.

(4)(a) The Nebraska Education Improvement Fund is created. The fund shall consist of money transferred pursuant to subsection (1) of this section and any other funds transferred by the Legislature. The fund shall be allocated, after actual and necessary administrative expenses, as provided in this subsection for fiscal years 2016-17 through 2023-24. A portion of each allocation for fiscal year 2023-24 may be retained by the agency to which the allocation is made or the agency administering the fund to which the allocation is made for actual and necessary expenses incurred by such agency for administration, evaluation, and technical assistance related to the purposes of the allocation, except that no amount of the allocation to the Nebraska Opportunity Grant Fund may be used for such purposes.

(b) For fiscal years 2017-18 through 2023-24, an amount equal to ten percent of the revenue received by the Nebraska Education Improvement Fund in the prior fiscal year shall be retained in the fund at all times plus any interest earned during the current fiscal year. The balance of the fund on July 26, 2024,

less three percent of the money received for the fourth quarter of fiscal year 2023-24, shall be transferred to the Behavioral Training Cash Fund.

(c) For fiscal year 2023-24, the Nebraska Education Improvement Fund shall be allocated as follows:

(i) One percent of the allocated funds to the Expanded Learning Opportunity Grant Fund to carry out the Expanded Learning Opportunity Grant Program Act;

(ii) Seventeen percent of the allocated funds to the State Department of Education Improvement Grant Fund to be used for competitive innovation grants pursuant to section 79-1054;

(iii) Nine percent of the allocated funds to the Community College Gap Assistance Program Fund to carry out the community college gap assistance program;

(iv) Eight percent of the allocated funds to the Excellence in Teaching Cash Fund to carry out the Excellence in Teaching Act;

(v) Sixty-two percent of the allocated funds to the Nebraska Opportunity Grant Fund to carry out the Nebraska Opportunity Grant Act in conjunction with appropriations from the General Fund; and

(vi) Three percent of the allocated funds to fund distance education incentives pursuant to section 79-1337.

(d) For fiscal year 2029-30 and each fiscal year thereafter, the Nebraska Education Improvement Fund shall be allocated as the Legislature may direct.

(e) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) A portion of each transfer pursuant to subdivisions (2)(c), (e), (f), (g), (h), and (i) of this section may be retained by the agency administering the fund to which such transfer is made for actual and necessary expenses incurred by such agency for administration, evaluation, and technical assistance related to the purposes of the transfer.

(6)(a) On or before September 20, 2022, and on or before each September 20 thereafter, (i) any department or agency receiving a transfer or acting as the administrator for a fund receiving a transfer pursuant to subsection (2) or (4) of this section, (ii) any recipient or subsequent recipient of money from any such fund, and (iii) any service contractor responsible for managing any portion of any such fund or any money disbursed from any such fund on behalf of any entity shall prepare and submit an annual report to the Auditor of Public Accounts in a manner prescribed by the auditor for the immediately preceding July 1 through June 30 fiscal year detailing information regarding the use of such fund or such money.

(b) The Auditor of Public Accounts shall annually compile a summary of the annual reports received pursuant to subdivision (6)(a) of this section, any audits related to transfers pursuant to subsection (2) or (4) of this section conducted by the Auditor of Public Accounts, and any findings or recommendations related to such transfers into a consolidated annual report and shall submit such consolidated annual report electronically to the Legislature on or before January 1, 2023, and on or before each January 1 thereafter.

(c) For purposes of this subsection, recipient, subsequent recipient, or service contractor means a nonprofit entity that expends funds transferred pursuant to subsection (2) or (4) of this section to carry out a state program or function, but does not include an individual who is a direct beneficiary of such a program or function.

(7) On or before December 31, 2027, the Education Committee of the Legislature shall electronically submit recommendations to the Clerk of the Legislature regarding how the money used for education from the State Lottery Operation Trust Fund should be allocated to best advance the educational priorities of the state for the five-year period beginning with fiscal year 2029-30.

**Source:** Laws 2023, LB705, § 1; Laws 2024, LB1329, § 92.  
Effective date July 19, 2024.

**Cross References**

- Behavioral Intervention Training and Teacher Support Act, see section 79-3601.
- College Pathway Program Act, see section 79-3704.
- Community College Gap Assistance Program Act, see section 85-2001.
- Door to College Scholarship Act, see section 85-3201.
- Excellence in Teaching Act, see section 85-3101.
- Expanded Learning Opportunity Grant Program Act, see section 79-2501.
- Mental health training grant program, see section 79-3605.
- Nebraska Capital Expansion Act, see section 72-1269.
- Nebraska Opportunity Grant Act, see section 85-1901.
- Nebraska State Funds Investment Act, see section 72-1260.
- State Department of Education distance education incentives, see section 79-1337.
- State Department of Education innovative and improvement grant programs, see section 79-1054.

**ARTICLE 36**

**BEHAVIORAL AND MENTAL HEALTH**

(a) BEHAVIORAL INTERVENTION TRAINING AND TEACHER SUPPORT ACT

- Section
- 79-3601. Behavioral Intervention Training and Teacher Support Act, how cited.
- 79-3602. Behavioral awareness training; statewide teacher support system; Educational Service Unit Coordinating Council; school district; duties; funding.
- 79-3603. Behavioral awareness point of contact; designation; training; duties; registry of local mental health and counseling resources; school district; maintain or have access.
- 79-3604. Behavioral Training Cash Fund; created; use; investment.

(b) MENTAL HEALTH TRAINING GRANTS

- 79-3605. Mental health training grant program; State Department of Education; duties; grant; application.
- 79-3606. Mental Health Training Cash Fund; created; use; investment.

(a) BEHAVIORAL INTERVENTION TRAINING AND TEACHER SUPPORT ACT

**79-3601 Behavioral Intervention Training and Teacher Support Act, how cited.**

Sections 79-3601 to 79-3604 shall be known and may be cited as the Behavioral Intervention Training and Teacher Support Act.

**Source:** Laws 2023, LB705, § 2.

**79-3602 Behavioral awareness training; statewide teacher support system; Educational Service Unit Coordinating Council; school district; duties; funding.**

(1)(a) Beginning in school year 2024-25, the Educational Service Unit Coordinating Council shall (i) ensure annual behavioral awareness training is available statewide and (ii) develop, implement, and administer an ongoing statewide teacher support system.

(b) Beginning in school year 2026-27, each school district shall ensure that each administrator, teacher, paraprofessional, school nurse, and counselor receives behavioral awareness training. The length of such training shall be a reasonable amount as determined by each school board. Each administrator, teacher, paraprofessional, school nurse, and counselor who has received such training shall receive a behavioral awareness training review at least once every three years. Each school district may offer such training, or similar training, to any other school employees at the discretion of the school district. In addition, all school employees shall have a basic awareness of the goals, strategies, and schoolwide plans included in such training.

(c) Behavioral awareness training shall include, but not be limited to, evidence-based training on a continuum that includes:

- (i) Recognition of detrimental factors impacting student behavior, including, but not limited to, signs of trauma;
- (ii) Positive behavior support and proactive teaching strategies, including, but not limited to, expectations and boundaries; and
- (iii) Verbal intervention and de-escalation techniques.

(2)(a) On or before July 1, 2025, and on or before July 1 of each year thereafter, each school district shall submit a behavioral awareness training report to the Educational Service Unit Coordinating Council. Such report shall include the school district behavioral awareness training plan and summarize how such plan fulfills the requirements of this section.

(b) On or before December 31, 2025, and each December 31 thereafter, the Educational Service Unit Coordinating Council shall submit a report to the Commissioner of Education and electronically to the Education Committee of the Legislature summarizing the behavioral awareness training reports received by school districts, the various trainings provided across the state, the teacher support system, and a financial report of funding received and expended in accordance with the Behavioral Intervention Training and Teacher Support Act.

(3)(a) Behavioral awareness training and the teacher support system required pursuant to this section shall be funded from the Behavioral Training Cash Fund.

(b) Any funding received by a school district for behavioral awareness training under the Behavioral Intervention Training and Teacher Support Act shall be considered special grant funds under section 79-1003.

**Source:** Laws 2023, LB705, § 3; Laws 2024, LB1329, § 93.  
Effective date July 19, 2024.

**79-3603 Behavioral awareness point of contact; designation; training; duties; registry of local mental health and counseling resources; school district; maintain or have access.**

(1) Each school district shall designate one or more school employees as a behavioral awareness point of contact for each school building or other division as determined by such school district. Each behavioral awareness point of

contact shall be trained in behavioral awareness and shall have knowledge of community service providers and other resources that are available for the students and families in such school district. The length of such training shall be a reasonable amount as determined by the school board.

(2) Each school district shall maintain or have access to a registry of local mental health and counseling resources. The registry shall include resource services that can be accessed by families and individuals outside of school. Each behavioral awareness point of contact shall coordinate access to support services for students whenever possible. Except as provided in section 43-2101, if information for an external support service is provided to an individual student, school personnel shall notify a parent or guardian of such student in writing unless such recommendation involves law enforcement or child protective services. Each school district shall indicate each behavioral awareness point of contact for such school district on the website of the school district and in any school directory for the school that the behavioral awareness point of contact serves.

**Source:** Laws 2023, LB705, § 4; Laws 2024, LB1329, § 94.  
Effective date July 19, 2024.

**79-3604 Behavioral Training Cash Fund; created; use; investment.**

The Behavioral Training Cash Fund is created. The fund shall be administered by the State Department of Education, shall consist of money transferred pursuant to section 79-3501 and any money transferred by the Legislature, and shall be used for the purposes of coordinating training and administering the teacher support system in compliance with the Behavioral Intervention Training and Teacher Support Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 2023, LB705, § 5.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

(b) MENTAL HEALTH TRAINING GRANTS

**79-3605 Mental health training grant program; State Department of Education; duties; grant; application.**

(1) The State Department of Education shall establish a mental health training grant program. The department shall award mental health training grants from any money available in the Mental Health Training Cash Fund. A grantee shall be a school district or an educational service unit.

(2) Each applicant for a mental health training grant shall describe in the application the training to be provided under the grant on:

(a) The skills, resources, and knowledge necessary to assist students in crisis to connect with appropriate local mental health services;

(b) Mental health resources, including, but not limited to, the location of local community mental health centers; and

(c) Action plans and protocols for referral to such resources.

(3) Each application for a mental health training grant shall also include in the application a description of how the training to be provided under the grant will prepare recipients of such training to:

- (a) Safely de-escalate crisis situations;
- (b) Recognize the signs and symptoms of mental illness, including, but not limited to, schizophrenia, bipolar disorder, major clinical depression, and anxiety disorders; and
- (c) Timely refer a student to available mental health services in the early stages of the development of a mental disorder to avoid the need for subsequent behavioral health care and to enhance the effectiveness of mental health services.

(4) The State Board of Education may adopt and promulgate rules and regulations to carry out this section, including, but not limited to, application procedures, selection procedures, and annual reporting procedures.

(5) Grants received pursuant to this section shall be considered special grant funds under section 79-1003.

**Source:** Laws 2023, LB705, § 6.

**79-3606 Mental Health Training Cash Fund; created; use; investment.**

The Mental Health Training Cash Fund is created. The fund shall be administered by the State Department of Education and shall consist of money transferred pursuant to section 79-3501 and any money transferred by the Legislature. The department shall use money in the fund for mental health training grants pursuant to section 79-3605. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 2023, LB705, § 7.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

**Nebraska State Funds Investment Act**, see section 72-1260.

**ARTICLE 37**

**COLLEGE PATHWAY PROGRAM ACT**

**Section**

79-3701. Act, how cited.

79-3702. Terms, defined.

79-3703. College Pathway Program; eligible providers; grants; eligibility.

79-3704. College Pathway Program Act; annual report; rules and regulations.

79-3705. College Pathway Program Cash Fund; created; use; investment.

**79-3701 Act, how cited.**

Sections 79-3701 to 79-3705 shall be known and may be cited as the College Pathway Program Act.

**Source:** Laws 2023, LB705, § 8.

**79-3702 Terms, defined.**

For purposes of the College Pathway Program Act:

(1) Eligible provider means a provider who meets the requirements of section 79-3703;

(2) Low-income student means a student eligible for free or reduced-price lunches in high school or a student whose family's taxable income for the preceding year did not exceed one hundred fifty percent of the federal poverty level; and

(3) Underrepresented student means a student whose race is not proportionately represented at the institution at which the student is enrolled or applying for admission as the representation of such race in the population of Nebraska.

**Source:** Laws 2023, LB705, § 9.

**79-3703 College Pathway Program; eligible providers; grants; eligibility.**

(1) The State Department of Education shall develop and administer the College Pathway Program to provide grants on or after July 1, 2024, to eligible providers to provide services in accordance with subsection (2) of this section to underrepresented and low-income students in high school and postsecondary education.

(2) A provider is eligible for a grant pursuant to the College Pathway Program Act if the provider offers, exclusively to underrepresented and low-income students, educational services that provide materials, services, and supports to help a student graduate from high school, apply for admission to a postsecondary institution, and complete the requirements to receive an associate degree or a baccalaureate degree. Such educational services may include:

(a) Assistance and tutorials which help students in completing applications for a college or university, including applying for aid through the Free Application for Federal Student Aid or other scholarships;

(b) Assistance and materials which help students take the appropriate high school classes in an area or field of study a student is interested in and any classes necessary for a student to gain acceptance at a postsecondary institution or complete the requirements and take the appropriate postsecondary education classes to receive an associate degree or a baccalaureate degree; and

(c) Any other services specified pursuant to rules and regulations adopted and promulgated by the State Board of Education.

(3) Eligible providers may apply to the State Department of Education for a grant in a manner prescribed by the Commissioner of Education.

**Source:** Laws 2023, LB705, § 10; Laws 2024, LB1329, § 95.  
Effective date July 19, 2024.

**79-3704 College Pathway Program Act; annual report; rules and regulations.**

(1) On or before December 1, 2024, and each December 1 thereafter, the State Department of Education shall electronically submit a report to the Clerk of the Legislature regarding the College Pathway Program Act, including, but not limited to, the recipients of grants and evaluations of the effectiveness of the grant program.

(2) The State Board of Education may adopt and promulgate rules and regulations to carry out the College Pathway Program Act.

**Source:** Laws 2023, LB705, § 11.



**79-3705 College Pathway Program Cash Fund; created; use; investment.**

The College Pathway Program Cash Fund is created. The fund shall be administered by the State Department of Education and shall consist of money transferred pursuant to section 79-3501 and any money transferred by the Legislature. The department shall use the fund to carry out the College Pathway Program Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 2023, LB705, § 12.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

**Nebraska State Funds Investment Act**, see section 72-1260.



# CHAPTER 80

## SERVICEMEMBERS AND VETERANS

Article.

1. County Veterans Service Committee. 80-101 to 80-111.
2. Memorials. 80-201 to 80-206.
3. Nebraska Veterans Services Act. 80-301 to 80-337.
4. Veterans Aid. 80-401 to 80-417.
5. Veterans Service Coordinating Committee. Omitted.
6. Mentally Ill Veterans. 80-601 to 80-606.
7. Minor Veterans. 80-701.
8. Vietnam Veterans Education Loans. Repealed.
9. Education Assistance for Military Personnel. 80-901 to 80-903.
10. State Service Providers. 80-1001.

### Cross References

#### Constitutional provisions:

Crimes committed by military personnel in time of war, procedure, see Article I, section 10, Constitution of Nebraska.  
Governor is commander-in-chief, see Article IV, section 14, Constitution of Nebraska.  
Military subordinate to civil power, see Article I, section 17, Constitution of Nebraska.  
Militia, provided by Legislature, see Article XIV, section 1, Constitution of Nebraska.  
Quartering of soldiers in houses without owners consent, when prohibited, see Article I, section 18, Constitution of Nebraska.  
Right of suffrage of military personnel, see Article VI, section 3, Constitution of Nebraska.

**Acknowledgments before officers of armed forces authorized**, see section 76-227.

**Active-duty military permits for state park system use**, see section 37-438.

**Armories**, see Chapter 18, article 10.

**Death certificates for military personnel dying outside United States**, recording of, see sections 71-605.01 and 71-605.02.

**Discharge records**, county clerks shall maintain, see sections 23-1309 and 23-1310.

**Elective office**, entry into military or naval service does not create vacancy, see section 32-561.

**Federal forts**, preservation, restoration, and development of abandoned, see sections 72-407 to 72-420.

**Hunting and fishing permits for disabled veterans**, see section 37-420.

**Hunting and fishing permits for military personnel**, resident, see section 37-419.

**Jury service**, exemptions from, see sections 25-1650 and 55-173.

#### License plates:

Disabled veteran license plates, see section 60-3,124.

Gold Star Family license plates, see sections 60-3,122.01 and 60-3,122.02.

Military Honor Plates, see sections 60-3,122.03 and 60-3,122.04.

Pearl Harbor license plates, see section 60-3,122.

Pets for Vets plates, see sections 60-3,249 and 60-3,250.

Prisoner-of-war license plates, see section 60-3,123.

Purple Heart license plates, see section 60-3,125.

Support Our Troops Plates, see sections 60-3,243 and 60-3,244.

**Licensed professions and occupations**, renewal license fees waived for practitioners in military service, see sections 38-142 and 38-146.

**Liquor licenses for retail sales near veterans' hospitals or homes prohibited**, see section 53-177.

**Migratory waterfowl hunting season for servicemembers and veterans**, see section 37-357.

**Military Code**, see section 55-101.

**Military Justice, Nebraska Code of**, see section 55-401.

**Motor vehicle operator's license renewal**, see section 60-4,121.

**National Guard**, see Chapter 55, article 1.

**Pension money exempt from execution**, see section 25-1559.

**Persons subject to military duty**, exemptions, see section 55-106.

**Public records**, when copies furnished without charge, see sections 23-1310, 33-110, 71-612, and 84-712.02.

**Residence for Election Act purposes**, see section 32-116.

**School facilities for children of residents of federal installations**, see sections 79-5,105 and 79-5,106.

**Schools**, free tuition for children of parent in military service, when, see section 79-216.

**Specific veterans organizations declared to be corporations**, see section 21-608.

**State Guard Act**, see section 55-219.

**Veterans Day**, proclamation by Governor, see section 84-104.01.

**Veterans Day hunting permits and stamps**, see section 37-421.

**Wyuka Cemetery**, soldiers burial ground, see sections 12-104 and 12-105.

## ARTICLE 1

### COUNTY VETERANS SERVICE COMMITTEE

#### Cross References

**Burial ground**, see sections 12-104 and 12-105.

§ 80-101

SERVICEMEMBERS AND VETERANS

Children of parent in military service, free tuition in schools, when, see section 79-216.

Discharge record, county clerk shall keep, see sections 23-1309 and 23-1310.

Pension money, exempt from levy and sale upon execution or attachment, see section 25-1559.

Section

- 80-101. County veterans service committee; members; term; compensation; vacancy, how filled; bond; expenses.
- 80-102. County veterans service committee; meetings; relief; persons entitled; determination; payment; tax; amount authorized.
- 80-102.01. County veterans service committee; acceptance of gifts, devises, and bequests.
- 80-103. County veterans service committee; members; removal from office; filling of vacancy.
- 80-104. Veterans; burial by county veterans service committee; when authorized; surviving relatives may conduct funeral.
- 80-105. Veterans; graves; headstones.
- 80-106. Veterans; burial expenses; payment.
- 80-107. Veterans graves, markers; furnish, when.
- 80-108. Veterans graves; petition for markers.
- 80-109. Repealed. Laws 1959, c. 423, § 2.
- 80-110. Repealed. Laws 1980, LB 741, § 1.
- 80-111. Repealed. Laws 1997, LB 396, § 28.

**80-101 County veterans service committee; members; term; compensation; vacancy, how filled; bond; expenses.**

(1) Each county board shall appoint a county veterans service committee of five members, such choice to be made from a list of eligible veterans recommended by the recognized veterans organizations within the county. Such list shall contain not less than three names for each appointment to be made.

(2) The terms of office of the members of the county veterans service committee initially appointed shall expire on June 30 of the years 1948, 1949, 1950, 1951, and 1952, as designated by the county board in making the respective appointments. As the terms of members expire, the county board shall, during the month of June of each year, appoint or reappoint a member of the committee for a term of five years to succeed the member whose term expires. Each member shall serve until the appointment and qualification of a successor. In case of a vacancy occurring prior to the expiration of the term of a member, the appointment shall be made only for the remainder of the term.

(3) The members of the county veterans service committee shall organize by the appointment of one of their number as chairperson and one as secretary-treasurer. The secretary-treasurer may be the county veterans service officer. The county veterans service officer shall not be a member of the committee. The members of the committee shall qualify by taking the usual oath of office and shall each give bond, if required by the local county board, in an amount determined by the local county board for the faithful performance of the duties of his or her office. The premiums for such bonds shall be paid by the county. Members of the committee shall be entitled to the necessary and actual expenses involved in the performance of their official duties, with mileage reimbursements to be computed at the rate provided in section 81-1176, which shall be paid out of the county general fund.

**Source:** Laws 1889, c. 72, § 2, p. 528; Laws 1905, c. 147, § 1, p. 590; R.S.1913, § 7155; Laws 1915, c. 128, § 1, p. 289; C.S.1922, § 6801; Laws 1927, c. 196, § 1, p. 556; C.S.1929, § 80-104;

R.S.1943, § 80-101; Laws 1947, c. 305, § 2, p. 924; Laws 1953, c. 324, § 2, p. 1071; Laws 1969, c. 752, § 1, p. 2830; Laws 1981, LB 204, § 164; Laws 1985, LB 134, § 1; Laws 1996, LB 1011, § 33.

**Cross References**

County veterans service committee, other provisions, see sections 80-406 to 80-410.

Elected county officials are required to give individual official bonds. Blanket bond is not sufficient. *Foote v. County of Adams*, 163 Neb. 406, 80 N.W.2d 179 (1956).

**80-102 County veterans service committee; meetings; relief; persons entitled; determination; payment; tax; amount authorized.**

(1)(a) The county veterans service committee shall meet at least once each year or on call of the chairperson or of any three members of the committee. It shall determine the amount it considers necessary for providing aid, including food, shelter, fuel, wearing apparel, medical or surgical aid, or funeral expenses, for the purposes identified in subdivisions (b) and (c) of this subsection. The county veterans service committee shall certify the amount so determined to the county board, which amount shall be reviewed and considered by the county board in making a levy for an aid fund.

(b) The county veterans service committee shall determine the amount of aid described in subdivision (a) of this subsection for persons who are in need of the aid and who:

- (i) Served in the armed forces of the United States;
- (ii) Were discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) or died while in service or as a direct result of that service; and
- (iii) Have legal residence in the State of Nebraska for a period of not less than one year and in the county in which application is made for a period of not less than six months.

(c) The county veterans service committee shall determine the amount of aid described in subdivision (a) of this subsection for:

- (i) Husbands and wives, surviving spouses, and minor children under eighteen years of age of veterans described in subdivision (b) of this subsection; and
- (ii) Payment of expenses of last illness and burial when a veteran described in subdivision (b) of this subsection or a surviving spouse described in subdivision (c)(i) of this subsection passes away leaving no next of kin.

(2) The county board of each county shall annually make such levy or levies as needed to raise the required aid fund referred to in subsection (1) of this section as the county board determines is necessary, not exceeding one cent on each one hundred dollars upon the taxable value of all the taxable property of such county. Any unexpended balance of the aid fund at the end of any fiscal year shall remain in the fund, without reappropriation, for future use. The committee or a majority thereof shall fix the amount to be paid to each claimant, subject to any amounts in the aid fund, and promptly disburse the same to or for the benefit of the claimant. The county clerk shall issue a warrant to the committee or to the county veterans service officer as directed by the committee upon the county treasurer for such amount as the committee shall from time to time request and as amounts in the aid fund permit. The committee shall at the end of each year make a detailed report of its transac-

tions to the county board. Such reports shall be accompanied with vouchers for all money disbursed.

**Source:** Laws 1889, c. 72, § 3, p. 529; R.S.1913, § 7156; C.S.1922, § 6802; C.S.1929, § 80-105; R.S.1943, § 80-102; Laws 1947, c. 305, § 3, p. 924; Laws 1951, c. 299, § 1, p. 987; Laws 1953, c. 324, § 7, p. 1073; Laws 1953, c. 287, § 88, p. 981; Laws 1969, c. 752, § 2, p. 2831; Laws 1979, LB 187, § 252; Laws 1992, LB 719A, § 199; Laws 1996, LB 1085, § 57; Laws 2005, LB 54, § 21; Laws 2024, LB1300, § 45.  
Operative date July 19, 2024.

**80-102.01 County veterans service committee; acceptance of gifts, devises, and bequests.**

The county veterans service committee shall have power to accept gifts, devises, and bequests of real and personal property to carry out the purposes for which such county veterans service committee was established and to the extent of the powers conferred upon such committee by this section and sections 80-101 and 80-102.

**Source:** Laws 1947, c. 305, § 4, p. 925; Laws 1996, LB 1085, § 58.

**80-103 County veterans service committee; members; removal from office; filling of vacancy.**

The county board may at any time remove any member of the county veterans service committee for neglect of duty, maladministration, or upon recommendation of all recognized veterans organizations in the county and appoint another veteran in the place of the member thus removed; *Provided*, that such appointment shall be made in accordance with the provisions of section 80-101.

**Source:** Laws 1889, c. 72, § 4, p. 530; R.S.1913, § 7157; C.S.1922, § 6803; C.S.1929, § 80-106; R.S.1943, § 80-103; Laws 1953, c. 324, § 3, p. 1072; Laws 1969, c. 752, § 3, p. 2832.

**80-104 Veterans; burial by county veterans service committee; when authorized; surviving relatives may conduct funeral.**

Except for cremated remains disposed of as provided in section 71-1382.01, it shall be the duty of the county veterans service committee to cause to be decently interred the body of any person who has been discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) from any arm of the military or naval service of the United States and who dies without leaving sufficient means to defray such person's funeral expenses. Such burials should not be made in any cemetery or burial grounds used exclusively for the burial of pauper dead. The committee shall permit the surviving relatives of the deceased to conduct the funeral if they request to do so.

**Source:** Laws 1885, c. 39, § 1, p. 214; Laws 1905, c. 146, § 1, p. 589; R.S.1913, § 7158; C.S.1922, § 6804; C.S.1929, § 80-107; R.S. 1943, § 80-104; Laws 1953, c. 324, § 4, p. 1072; Laws 1959, c. 420, § 1, p. 1415; Laws 2005, LB 54, § 22; Laws 2015, LB146, § 5; Laws 2024, LB1300, § 46.  
Operative date July 19, 2024.

**80-105 Veterans; graves; headstones.**

The grave of any deceased person described in section 80-104 shall be marked by a headstone containing the name of the deceased and the organization to which he or she belonged or in which he or she served. The county veterans service committee, upon the death and burial of any such person residing within such county at the time of his or her death, shall make application to the proper authorities of the government of the United States for a suitable headstone, as provided by Act of Congress, and cause the same to be placed at the head of the deceased person's grave.

**Source:** Laws 1885, c. 39, § 2, p. 214; R.S.1913, § 7159; C.S.1922, § 6805; C.S.1929, § 80-108; R.S.1943, § 80-105; Laws 1953, c. 324, § 5, p. 1072; Laws 2005, LB 54, § 23.

**80-106 Veterans; burial expenses; payment.**

The expenses of burial under section 80-104 shall be paid by the county in which such veteran maintained his or her legal residence at time of death. The county board of such county is authorized and directed to audit the account and pay the expenses in similar manner as other accounts against such county are audited and paid.

**Source:** Laws 1885, c. 39, § 3, p. 215; R.S.1913, § 7160; C.S.1922, § 6806; C.S.1929, § 80-109; R.S.1943, § 80-106; Laws 1969, c. 752, § 4, p. 2832; Laws 2005, LB 54, § 24.

**80-107 Veterans graves, markers; furnish, when.**

(1) The county boards of the several counties in this state shall, upon the application of the county veterans service committee, procure for and furnish to such committee some suitable and appropriate metal marker for the grave of each and every person described in subsection (2) of this section, to be placed on the grave of such soldier for the purpose of permanently marking and designating the grave for memorial purposes.

(2) A grave shall be marked pursuant to this section if the deceased person:

(a)(i) Served in the active duty armed forces of the United States or the reserve forces of the United States;

(ii) Served in the Nebraska National Guard in active duty federal service; or

(iii) Served in the Nebraska National Guard on or after July 1, 1973;

(b) Was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions); and

(c) Is buried within the county.

**Source:** Laws 1909, c. 135, § 1, p. 483; R.S.1913, § 7161; C.S.1922, § 6807; C.S.1929, § 80-110; R.S.1943, § 80-107; Laws 1953, c. 324, § 6, p. 1073; Laws 2005, LB 54, § 25; Laws 2021, LB261, § 1.

**80-108 Veterans graves; petition for markers.**

In all petitions to the county boards the petitioners shall state the names of veterans buried and the number of such graves in the townships, precincts or municipalities at the time of petitioning.

**Source:** Laws 1909, c. 135, § 2, p. 484; R.S.1913, § 7162; C.S.1922, § 6808; C.S.1929, § 80-111; R.S.1943, § 80-108; Laws 1969, c. 752, § 5, p. 2832.

**80-109 Repealed. Laws 1959, c. 423, § 2.**

**80-110 Repealed. Laws 1980, LB 741, § 1.**

**80-111 Repealed. Laws 1997, LB 396, § 28.**

## ARTICLE 2 MEMORIALS

### Section

- 80-201. Memorials; authority to erect.
- 80-202. Memorials; erection; plans; publication; tax authorized; limitation.
- 80-203. Memorials; ordinance to erect; referendum; effect.
- 80-204. Memorial; erection; initiative petition; effect.
- 80-205. Elections; laws governing.
- 80-206. POW/MIA flag; display; when; conditions.

### **80-201 Memorials; authority to erect.**

All counties, townships, cities, and villages of Nebraska may erect or aid in the erection of statues, monuments, or other memorials commemorating the services of the members of the armed forces of the United States of America to be located upon the public lands or within the public buildings within such county, township, city, or village.

**Source:** Laws 1919, c. 254, § 1, p. 1031; C.S.1922, § 6812; C.S.1929, § 80-201; R.S.1943, § 80-201; Laws 1987, LB 626, § 1; Laws 2015, LB479, § 1.

### **80-202 Memorials; erection; plans; publication; tax authorized; limitation.**

The board of supervisors or commissioners of any county, the electors of any township at the annual or special township meeting, or the commissioners, council, or trustees of any city or village may by proper resolution, motion, or ordinance decide to erect or aid in the erection of any such statue, monument, or other memorial. Such resolution, motion, or ordinance shall specify the general features and plan of such statue, monument, or other memorial, the proposed location, the probable cost, and the amount thereof to be paid by such county, township, city, or village. The resolution, motion, or ordinance shall thereafter be published once in the official paper of the county, city, or village, and twenty days after the publication date of the publication, the proper authorities may levy a tax, in addition to the taxes otherwise authorized to be levied upon the taxable property of such county, township, city, or village, to pay the amount so to be paid by such county, township, city, or village, in like manner as general taxes are levied, or to pay such amount from the general fund. The levy shall be subject to sections 77-3442 and 77-3443.

**Source:** Laws 1919, c. 254, § 2, p. 1031; C.S.1922, § 6813; C.S.1929, § 80-202; R.S.1943, § 80-202; Laws 1996, LB 1114, § 68; Laws 1997, LB 269, § 63; Laws 1998, LB 306, § 45.



**80-203 Memorials; ordinance to erect; referendum; effect.**

No money shall be so raised or expended, as provided in section 80-202, until the expiration of twenty days after the passage or adoption of such resolution, motion, or ordinance authorizing the same, and if within that time a petition shall be filed with said supervisors or commissioners of the county, or the commissioners, council or trustees of the city or village, signed by fifteen percent of the legal voters of said county, city or village, asking that such proposition be submitted to a vote of the people, then such proposition shall be submitted to the vote of the people of the county, city or village and shall not become effective until it shall have been approved by a majority of those voting thereon at the next general, special, city or village election held more than thirty days after the filing of said petition.

**Source:** Laws 1919, c. 254, § 3, p. 1032; C.S.1922, § 6814; C.S.1929, § 80-203; R.S.1943, § 80-203.

**80-204 Memorial; erection; initiative petition; effect.**

Whenever there shall be filed with any board of supervisors or commissioners of the county, or the commissioners, council or trustees of the city or village, a petition signed by ten percent of the voters of such county, city or village asking for the erection, or aid for the erection, of any such statue, monument or other memorial, and describing the same as hereinbefore set forth, the supervisors or commissioners of the county, or the commissioners, council or trustees of the city or village shall without delay proceed therewith, subject to the referendum petition of fifteen percent of the voters as provided in section 80-203, or shall without delay provide for the submission of such proposition to a vote of the people at the next general, special, city or village election occurring not less than thirty days after the filing of such petition, and if, when so submitted, it shall be approved by a majority of those voting on such proposition, it shall be proceeded with.

**Source:** Laws 1919, c. 254, § 4, p. 1032; C.S.1922, § 6815; C.S.1929, § 80-204; R.S.1943, § 80-204.

**80-205 Elections; laws governing.**

Propositions submitted to a vote of the people under sections 80-203 and 80-204 shall be submitted in like manner on the ballot as under the general initiative and referendum law.

**Source:** Laws 1919, c. 254, § 5, p. 1032; C.S.1922, § 6816; C.S.1929, § 80-205; R.S.1943, § 80-205.

**80-206 POW/MIA flag; display; when; conditions.**

(1) Upon the request of any veterans organization, any other group, or any person, a POW/MIA flag may be displayed on or near the State Capitol, the Governor's Mansion, or any courthouse, city or village hall, schoolhouse, or other public administrative building in this state. Such flag shall be displayed in accordance with accepted flag protocol.

(2) The organization, group, or person making such request shall purchase and maintain the POW/MIA flag.

(3) For purposes of this section, a POW/MIA flag shall mean a flag recognized and accepted by internationally recognized veterans organizations as memorial-

izing prisoners of war and persons declared missing in action as a result of military service.

**Source:** Laws 1991, LB 313, § 3.

**ARTICLE 3**

**NEBRASKA VETERANS SERVICES ACT**

**Cross References**

**Administrator**, qualifications, see section 80-325.  
**Basic workweek**, qualifications, see Chapter 84, article 10.  
**Management by Department of Health and Human Services**, see section 83-108.  
**Materiel administrator to make purchases for**, see section 83-140.  
**Official names of state institutions**, see section 83-107.01.

**Section**

- 80-301. Transferred to section 80-315.
- 80-301.01. Act, how cited.
- 80-301.02. Transferred to section 80-326.
- 80-301.03. Terms, defined.
- 80-302. Transferred to section 80-317.
- 80-303. Repealed. Laws 1969, c. 753, § 3.
- 80-304. Transferred to section 80-314.
- 80-304.01. Transferred to section 80-327.
- 80-305. Transferred to section 80-318.
- 80-306. Transferred to section 80-319.
- 80-307. Transferred to section 80-320.
- 80-308. Transferred to section 80-321.
- 80-309. Transferred to section 80-331.
- 80-310. Repealed. Laws 1980, LB 184, § 13.
- 80-311. Transferred to section 80-328.
- 80-312. Transferred to section 80-329.
- 80-313. Transferred to section 80-330.
- 80-314. Veterans homes; director; duties; rules and regulations.
- 80-315. Nebraska veterans homes; establishment.
- 80-316. Veterans homes; purpose; admission; requirements.
- 80-317. Nebraska veterans homes; Veterans' Homes Board; rules of membership; application.
- 80-318. Veterans' Homes Board; members; appointment; compensation; expenses.
- 80-319. Veterans' Homes Board; duties; powers; meetings.
- 80-320. Director; rules and regulations.
- 80-321. Member; payment for care; public expense.
- 80-322. Reimbursement of costs.
- 80-322.01. Department of Veterans' Affairs Cash Fund; created; use; investment.
- 80-323. Repealed. Laws 2002, LB 93, § 27.
- 80-324. Repealed. Laws 2002, LB 93, § 27.
- 80-325. Administrator of Nebraska veterans homes; qualifications.
- 80-326. Veterans' Home Building Fund; created; purposes; investment.
- 80-327. Nebraska veterans homes; member; disability; guardianship proceedings; guardian or conservator; fees; bond.
- 80-328. State of Nebraska; enter into lease agreement with Douglas County; property; described; use as a veterans home.
- 80-329. County board; lease or sell property for use as a veterans home; terms.
- 80-330. Property used as a veterans home; utility service; state provide; how compensated.
- 80-331. Norfolk Veterans' Home.
- 80-332. Employees of Division of Veterans' Homes of Department of Health and Human Services; transfer; how treated.
- 80-333. Contracts and other documents; how treated.
- 80-334. Existing suits and proceedings; how treated.
- 80-335. Law; how construed.
- 80-336. Repealed. Laws 2024, LB252, § 10.

Section  
80-337. Money or personal property to credit of member of veterans home; claim;  
disposition; procedure.

**80-301 Transferred to section 80-315.**

**80-301.01 Act, how cited.**

Sections 80-301.01 to 80-337 shall be known and may be cited as the Nebraska Veterans Services Act.

**Source:** Laws 2017, LB340, § 1; Laws 2018, LB827, § 1.

**80-301.02 Transferred to section 80-326.**

**80-301.03 Terms, defined.**

For purposes of the Nebraska Veterans Services Act:

- (1) Department means the Department of Veterans' Affairs;
- (2) Director means the Director of Veterans' Affairs; and
- (3) Veterans homes means the homes listed in section 80-315.

**Source:** Laws 2017, LB340, § 2.

**80-302 Transferred to section 80-317.**

**80-303 Repealed. Laws 1969, c. 753, § 3.**

**80-304 Transferred to section 80-314.**

**80-304.01 Transferred to section 80-327.**

**80-305 Transferred to section 80-318.**

**80-306 Transferred to section 80-319.**

**80-307 Transferred to section 80-320.**

**80-308 Transferred to section 80-321.**

**80-309 Transferred to section 80-331.**

**80-310 Repealed. Laws 1980, LB 184, § 13.**

**80-311 Transferred to section 80-328.**

**80-312 Transferred to section 80-329.**

**80-313 Transferred to section 80-330.**

**80-314 Veterans homes; director; duties; rules and regulations.**

Effective July 1, 2017, all programs, services, and duties of the Division of Veterans' Homes of the Department of Health and Human Services shall be transferred to the Department of Veterans' Affairs. The department shall be responsible for the management and administration of the veterans homes and the treatment of the members thereof, define the duties of the officers, fix their compensation, and adopt and promulgate rules and regulations. The director shall develop member grievance procedures, family support programs, volun-

teer support, policy, and internal standards. The director shall have access to all confidential information relating to members' care.

**Source:** Laws 1887, c. 82, § 6, p. 626; Laws 1891, c. 49, § 3, p. 343; Laws 1893, c. 33, § 1, p. 361; Laws 1905, c. 145, § 2, p. 586; R.S.1913, § 7305; C.S.1922, § 6960; Laws 1923, c. 183, § 1, p. 424; C.S. 1929, § 80-304; R.S.1943, § 80-304; Laws 1949, c. 272, § 3(1), p. 893; Laws 1959, c. 420, § 2, p. 1416; Laws 1980, LB 184, § 3; Laws 1996, LB 1044, § 831; R.S.1943, (1996), § 80-304; Laws 1997, LB 396, § 3; Laws 2007, LB296, § 718; Laws 2017, LB340, § 3.

Enactment of rule which requires inmates of soldiers' home to pay a percentage of pension money for benefit of home is within discretionary power of Board of Control. *Howell v. Sheldon*, 82 Neb. 72, 117 N.W. 109 (1908).

### **80-315 Nebraska veterans homes; establishment.**

The Central Nebraska Veterans' Home, the Norfolk Veterans' Home, the Eastern Nebraska Veterans' Home, and the Western Nebraska Veterans' Home are established. The State of Nebraska shall maintain the homes as provided in the Nebraska Veterans Services Act.

**Source:** Laws 1887, c. 82, § 1, p. 622; Laws 1889, c. 85, § 1, p. 569; Laws 1891, c. 49, § 1, p. 340; Laws 1901, c. 71, § 1, p. 458; R.S.1913, § 7302; Laws 1919, c. 157, § 1, p. 354; C.S.1922, § 6957; C.S. 1929, § 80-301; Laws 1931, c. 153, § 1, p. 412; Laws 1935, c. 172, § 1, p. 627; C.S.Supp.,1941, § 80-301; Laws 1943, c. 211, § 1, p. 696; R.S.1943, § 80-301; Laws 1949, c. 272, § 1, p. 891; Laws 1953, c. 325, § 1, p. 1075; Laws 1959, c. 421, § 1, p. 1417; Laws 1969, c. 753, § 1, p. 2833; Laws 1969, c. 584, § 93, p. 2402; Laws 1971, LB 334, § 1; Laws 1973, LB 33, § 1; Laws 1975, LB 90, § 2; Laws 1979, LB 80, § 112; Laws 1980, LB 184, § 1; Laws 1981, LB 351, § 1; Laws 1991, LB 2, § 23; Laws 1994, LB 1066, § 95; Laws 1994, LB 1194, § 16; R.S.1943, (1996), § 80-301; Laws 1997, LB 396, § 4; Laws 2006, LB 994, § 110; Laws 2017, LB340, § 4; Laws 2024, LB252, § 1.

Effective date July 19, 2024.

### **80-316 Veterans homes; purpose; admission; requirements.**

(1) The department shall provide domiciliary and nursing home care and subsistence to:

(a) All persons who either served on active duty in the armed forces of the United States other than active duty for training or served on active duty for training in the Nebraska National Guard and who were discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) if, at the time of making an application for admission to one of the Nebraska veterans homes:

(i) The applicant has been a bona fide resident of the State of Nebraska for at least two years;

(ii) The applicant has become disabled due to service, old age, or otherwise to an extent that it would prevent such applicant from earning a livelihood; and

(iii) The applicant's income from all sources is such that the applicant would be dependent wholly or partially upon public charities for support or the type of care needed is available only at a state institution;

(b) The spouse of any such person admitted to one of the homes who has attained the age of fifty years and has been married to such member for at least two years before his or her entrance into the home;

(c) Subject to subsection (2) of this section, the surviving spouses and parents of eligible servicemen and servicewomen as defined in subdivision (a) of this subsection who died while in the service of the United States or who have since died of a service-connected disability as determined by the United States Department of Veterans Affairs; and

(d) Subject to subsection (2) of this section, the surviving spouses of eligible servicemen or servicewomen as defined in subdivision (a) of this subsection who have since died.

(2) The surviving spouses and parents referred to in subdivision (1)(c) or (d) of this section shall be eligible for such care and subsistence if, at the time of applying, they:

(a) Have been bona fide residents of the State of Nebraska for at least two years;

(b) Have attained the age of fifty years;

(c) Are unable to earn a livelihood; and

(d) Are dependent wholly or partially upon public charities or the type of care needed is available only at a state institution.

(3) No one admitted to one of the Nebraska veterans homes under conditions enumerated in this section shall have a vested right to continued residence in such home if such person ceases to meet any of the eligibility requirements of this section, except that no person who has been regularly admitted shall be denied continued residence solely because of his or her marriage to a member of one of the homes.

**Source:** Laws 1997, LB 396, § 5; Laws 2005, LB 54, § 26; Laws 2007, LB296, § 719; Laws 2009, LB488, § 1; Laws 2017, LB340, § 5; Laws 2024, LB1300, § 47.

Operative date July 19, 2024.

**80-317 Nebraska veterans homes; Veterans' Homes Board; rules of membership; application.**

The Veterans' Homes Board shall prescribe rules of membership in the Nebraska veterans homes in accordance with the Nebraska Veterans Services Act. An application for membership in a Nebraska veterans home shall be made to a county veterans service officer, to a recognized veterans organization as defined in subdivision (1) of section 80-401.01, or to a Nebraska veterans home, and such officer, organization, or Nebraska veterans home shall coordinate the required financial and medical information and, if necessary, provide an opinion regarding its validity. The county veterans service officer, recognized veterans organization, or Nebraska veterans home shall at once forward the application together with a finding in regard to the condition of the applicant to the board, whose duty it is to receive, review, and act upon applications for membership. During the interim between meetings of the board, the secretary of the board is authorized to adjudicate applications, subject to the approval of the full board at its next meeting.

**Source:** Laws 1887, c. 82, § 1, p. 622; Laws 1889, c. 85, § 1, p. 569; Laws 1891, c. 49, § 1, p. 340; Laws 1901, c. 71, § 1, p. 458; R.S.1913,

§ 7302; Laws 1919, c. 157, § 1, p. 354; C.S.1922, § 6957; C.S. 1929, § 80-301; Laws 1931, c. 153, § 1, p. 412; Laws 1935, c. 172, § 1, p. 627; C.S.Supp.,1941, § 80-301; Laws 1943, c. 211, § 1, p. 696; R.S.1943, § 80-301; Laws 1949, c. 272, § 1, p. 891; Laws 1953, c. 325, § 1, p. 1075; Laws 1959, c. 421, § 1, p. 1417; Laws 1969, c. 753, § 1, p. 2833; Laws 1969, c. 584, § 93, p. 2402; Laws 1971, LB 334, § 1; Laws 1973, LB 33, § 1; Laws 1975, LB 90, § 2; Laws 1980, LB 184, § 2; Laws 1995, LB 64, § 1; R.S.1943, (1996), § 80-302; Laws 1997, LB 396, § 6; Laws 2007, LB296, § 720; Laws 2012, LB795, § 1; Laws 2017, LB340, § 6.

**80-318 Veterans' Homes Board; members; appointment; compensation; expenses.**

For the purpose of determining continued eligibility of members to remain in one of the Nebraska veterans homes and for the purpose of recommending matters of policy, rules and regulations, administration, and maintenance pertaining to each of the Nebraska veterans homes, the Veterans' Homes Board is established. The board shall be composed of two members selected by each of the recognized veterans organizations in Nebraska identified in subdivision (1) of section 80-401.01, and the Director of Veterans' Affairs who shall serve as the permanent board secretary. Such members shall be selected in the manner and serve for such term as the veterans organization may prescribe. If a member selected by any such veterans organization is unavailable to attend a meeting of the board or unable to serve for any reason, the incumbent department commander of such organization may appoint some other member of his or her organization to serve on the board. The chairperson shall be selected from among the members of the board. No salary shall be paid to any member of the board, but expenses of the members of the board when attending regularly called meetings of that board shall be paid as provided in sections 81-1174 to 81-1177 from the administrative funds of the Department of Veterans' Affairs.

**Source:** Laws 1949, c. 272, § 4(1), p. 893; Laws 1951, c. 300, § 1, p. 989; Laws 1979, LB 271, § 1; Laws 1980, LB 184, § 5; Laws 1981, LB 204, § 165; Laws 1982, LB 564, § 1; R.S.1943, (1996), § 80-305; Laws 1997, LB 396, § 7; Laws 2005, LB 54, § 27; Laws 2007, LB296, § 721; Laws 2020, LB381, § 98.

**80-319 Veterans' Homes Board; duties; powers; meetings.**

The Veterans' Homes Board shall meet at least quarterly and at other times at the request of either the chairperson or the secretary of the board at a site selected by the secretary after consultation with the chairperson. The board shall review all applications submitted for admission to the Nebraska veterans homes system and shall make all final determinations regarding admission, or continued admission, to one of the homes. The board may check periodically on members of the Nebraska veterans homes to determine whether or not their physical or financial status has so changed since admission that they should no longer be maintained there. The board has power to subpoena witnesses and take testimony under oath relative to the duties of the board. No specified amount, either as to income or accumulated reserve, shall be arbitrarily fixed for determining the eligibility of an applicant to membership or to continuing rights of membership, but each case shall be considered solely on its merits and

the evidence presented. The department shall consult with the board prior to denying further residence to members the board finds should no longer be supported there.

**Source:** Laws 1949, c. 272, § 4(2), p. 894; Laws 1953, c. 325, § 2, p. 1076; Laws 1971, LB 334, § 3; Laws 1980, LB 184, § 6; Laws 1996, LB 1044, § 832; R.S.1943, (1996), § 80-306; Laws 1997, LB 396, § 8; Laws 2007, LB296, § 722; Laws 2017, LB340, § 7.

**80-320 Director; rules and regulations.**

(1) Nothing in the Nebraska Veterans Services Act shall be construed as limiting the authority vested with the director to adopt and promulgate rules and regulations, not inconsistent with the act, for the administration of the Nebraska veterans homes. The department, in conjunction and after consultation with the Veterans' Homes Board, shall adopt and promulgate rules and regulations governing admission to and administration of the homes.

(2) All rules, regulations, and orders of the Division of Veterans' Homes of the Department of Health and Human Services or its predecessor agencies adopted prior to July 1, 2017, in connection with the powers, duties, and functions transferred to the Department of Veterans' Affairs pursuant to the Nebraska Veterans Services Act, shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

**Source:** Laws 1909, c. 134, § 1, p. 482; R.S.1913, § 7306; C.S.1922, § 6961; C.S.1929, § 80-305; R.S.1943, § 80-305; Laws 1949, c. 272, § 4(3), p. 894; Laws 1953, c. 325, § 3, p. 1077; Laws 1980, LB 184, § 7; Laws 1996, LB 1044, § 833; R.S.1943, (1996), § 80-307; Laws 1997, LB 396, § 9; Laws 2007, LB296, § 723; Laws 2017, LB340, § 8.

**80-321 Member; payment for care; public expense.**

Nothing in the Nebraska Veterans Services Act shall be construed to deny any person who has been properly admitted to one of the Nebraska veterans homes the privilege of paying the cost of his or her care, or any part thereof, if he or she so desires or if it has been determined by the Veterans' Homes Board that his or her financial status is such that he or she should no longer be maintained there at public expense.

**Source:** Laws 1891, c. 49, § 7, p. 346; Laws 1909, c. 134, § 1, p. 482; R.S.1913, § 7306; C.S.1922, § 6961; C.S.1929, § 80-305; R.S. 1943, § 80-305; Laws 1949, c. 272, § 5, p. 895; Laws 1971, LB 334, § 4; Laws 1980, LB 184, § 8; R.S.1943, (1996), § 80-308; Laws 1997, LB 396, § 10; Laws 2007, LB296, § 724; Laws 2017, LB340, § 9.

**80-322 Reimbursement of costs.**

Any veteran, spouse, surviving spouse, or parent admitted to one of the Nebraska veterans homes under section 80-316 who has an income in excess of forty dollars per month, including federal pension, compensation, or social security, or has sufficient assets will be required to reimburse the state monthly a reasonable amount for the expense of his or her maintenance. The amount shall be determined by the Veterans' Homes Board. All money paid to the state by members of the Nebraska veterans homes in compliance with this section

shall be remitted to the State Treasurer for credit to the Department of Veterans' Affairs Cash Fund. The State Treasurer shall transfer any money remaining in the Health and Human Services Cash Fund on July 1, 2017, that was credited to the fund pursuant to this section to the Department of Veterans' Affairs Cash Fund.

**Source:** Laws 1997, LB 396, § 11; Laws 2007, LB296, § 725; Laws 2017, LB340, § 10.

**80-322.01 Department of Veterans' Affairs Cash Fund; created; use; investment.**

The Department of Veterans' Affairs Cash Fund is created. The fund shall include any transfers by the Legislature, any gifts, grants, bequests, contributions, or donations received by the department, and money transferred pursuant to section 80-322. The department shall administer the fund. Disbursements from the fund shall be used by the department for the purposes of supporting veteran services, carrying out the duties and functions of the department, paying administrative costs of the department, or for the specific purposes designated by acceptance of any gift, grant, bequest, contribution, or donation. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 2017, LB340, § 11; Laws 2024, LB252, § 2.  
Effective date July 19, 2024.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

**Nebraska State Funds Investment Act**, see section 72-1260.

**80-323 Repealed. Laws 2002, LB 93, § 27.**

**80-324 Repealed. Laws 2002, LB 93, § 27.**

**80-325 Administrator of Nebraska veterans homes; qualifications.**

The administrator of the Nebraska veterans homes shall be a licensed nursing home administrator licensed under the Nursing Home Administrator Practice Act. Qualified applicants for the position of administrator who were discharged or otherwise separated with a characterization of honorable from the armed forces of the United States during a period of war as defined in section 80-401.01 shall be given a preference over other applicants.

**Source:** Laws 1913, c. 179, § 11, p. 538; R.S.1913, § 7189; Laws 1917, c. 131, § 1, p. 312; Laws 1921, c. 200, § 1, p. 722; C.S.1922, § 6840; C.S.1929, § 83-111; Laws 1935, c. 185, § 2, p. 685; C.S.Supp.,1941, § 83-111; R.S.1943, § 83-124; Laws 1947, c. 329, § 1, p. 1045; Laws 1951, c. 320, § 1, p. 1092; Laws 1953, c. 340, § 1, p. 1113; Laws 1969, c. 817, § 71, p. 3107; Laws 1971, LB 334, § 5; R.S.1943, (1994), § 83-124; Laws 1997, LB 396, § 14; Laws 2001, LB 10, § 1; Laws 2005, LB 54, § 28; Laws 2007, LB463, § 1310.

**Cross References**

**Nursing Home Administrator Practice Act**, see section 38-2401.

**80-326 Veterans' Home Building Fund; created; purposes; investment.**



The Veterans' Home Building Fund is created. The fund shall include money allocated to the fund. The fund shall be used, along with matching federal funds available, for the specific purposes of adding or improving nursing facilities when needed. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1978, LB 315, § 2; Laws 1990, LB 1216, § 1; Laws 1994, LB 1194, § 17; Laws 1995, LB 7, § 94; R.S.1943, (1996), § 80-301.02; Laws 1997, LB 396, § 15.

#### Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

### **80-327 Nebraska veterans homes; member; disability; guardianship proceedings; guardian or conservator; fees; bond.**

Whenever a member of one of the Nebraska veterans homes becomes disabled because of age or otherwise to such an extent that it is impossible for the member to transact his or her personal financial business, the administrator of such home may institute, in the administrator's official capacity, proceedings for the legal appointment of a guardian or conservator to take charge of and administer all funds, whether pension, compensation, or otherwise, inuring to the member. A member of the staff of each home shall be named guardian officer of that home and may be appointed guardian or conservator of members of such home. The guardian officer shall not receive fees or compensation from the member for such services. Bond for the guardian officer shall be paid by the State of Nebraska.

**Source:** Laws 1949, c. 272, § 3(2), p. 893; Laws 1959, c. 420, § 3, p. 1416; Laws 1971, LB 335, § 3; Laws 1980, LB 184, § 4; Laws 1995, LB 12, § 1; R.S.1943, (1996), § 80-304.01; Laws 1997, LB 396, § 16.

### **80-328 State of Nebraska; enter into lease agreement with Douglas County; property; described; use as a veterans home.**

The Legislature hereby approves and recommends to the Governor that the State of Nebraska enter into a lease agreement with Douglas County, Nebraska, relating to land and buildings located in Douglas County, Nebraska, for use as a veterans home. Such land and buildings shall include two parcels of land being part of the northwest quarter of the northwest quarter of section 11, township 15 north, range 11 east of the 6th principal meridian, Douglas County, Nebraska, and being more particularly described as follows:

(1) Commencing at the northeast corner of the northwest quarter of the northwest quarter of said section 11; thence south zero degrees two minutes thirty-six seconds for a distance of thirty-three feet to the point of beginning; thence continuing south zero degrees two minutes thirty-six seconds west for a distance of nine hundred sixty-six and seventy-five hundredths feet; thence north eighty-nine degrees fifty-seven minutes twenty-four seconds west for a distance of two hundred fifteen and seven-tenths feet; thence south zero degrees two minutes thirty-six seconds west for a distance of twenty-nine feet; thence north eighty-nine degrees fifty-seven minutes twenty-four seconds west for a distance of four hundred ninety-nine and sixty-five hundredths feet; thence north zero degrees two minutes thirty-six seconds east for a distance of nine

hundred ninety-three and seventy-five hundredths feet; thence north eighty-nine degrees fifty-three minutes one second east for a distance of seven hundred fifteen and thirty-four hundredths feet to the point of beginning, containing sixteen and nineteen-hundredths acres, more or less; and

(2) Commencing at the southwest corner of the northwest quarter of the northwest quarter of said section 11; thence north eighty-nine degrees fifty minutes fifty-six seconds east for a distance of one hundred sixty-eight and seventy-five hundredths feet to the point of beginning; thence north zero degrees zero minutes zero seconds east for a distance of seventy-three feet; thence north eighty-nine degrees fifty minutes fifty-six seconds east for a distance of one hundred five and fifty-three hundredths feet; thence south zero degrees zero minutes zero seconds east for a distance of seventy-three feet; thence south eighty-nine degrees fifty minutes fifty-six seconds west for a distance of one hundred five and fifty-three hundredths feet to the point of beginning, containing eighteen-hundredths acre, more or less.

**Source:** Laws 1980, LB 184, § 9; R.S.1943, (1996), § 80-311; Laws 1997, LB 396, § 17.

**80-329 County board; lease or sell property for use as a veterans home; terms.**

Any county board may lease or sell public property to the state for use as a veterans home at such rent and under such terms and conditions as it may deem just and advisable, notwithstanding the fact that such lease or sale is at less than the fair market value of such property.

**Source:** Laws 1980, LB 184, § 11; R.S.1943, (1996), § 80-312; Laws 1997, LB 396, § 18.

**80-330 Property used as a veterans home; utility service; state provide; how compensated.**

If the state provides utility service to Douglas County in connection with the lease of land and buildings located in Douglas County, Nebraska, for use as a veterans home by the state, Douglas County shall provide the state with fair and equitable compensation for the services provided.

**Source:** Laws 1980, LB 184, § 12; R.S.1943, (1996), § 80-313; Laws 1997, LB 396, § 19.

**80-331 Norfolk Veterans' Home.**

There is hereby established near Norfolk, Nebraska, on the site of the Norfolk Regional Center and further described as follows:

Beginning at a point located approximately one thousand nine hundred twenty feet east of, and approximately nine hundred sixty feet south of the northwest corner of section thirteen, township twenty-four north, range one west in Madison County and thence five hundred feet south along the west curb line of Service Street, thence five hundred feet west, thence five hundred feet north, thence five hundred feet east to the place of beginning; and building number twenty-three located approximately six hundred ninety feet south and

three hundred ninety-five feet east of the southeast corner of the above described lot; a facility to be known as the Norfolk Veterans' Home.

**Source:** Laws 1963, c. 496, § 1, p. 1586; Laws 1972, LB 1246, § 1; R.S.1943, (1996), § 80-309; Laws 1997, LB 396, § 20.

**80-332 Employees of Division of Veterans' Homes of Department of Health and Human Services; transfer; how treated.**

On and after July 1, 2017, positions of employment in the Division of Veterans' Homes of the Department of Health and Human Services related to the powers, duties, and functions transferred pursuant to the Nebraska Veterans Services Act are transferred to the Department of Veterans' Affairs. For purposes of the transition, employees of the division shall be considered employees of the department and shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the department or the director from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

**Source:** Laws 2017, LB340, § 12.

**80-333 Contracts and other documents; how treated.**

On and after July 1, 2017, whenever the Division of Veterans' Homes of the Department of Health and Human Services is referred to or designated by any contract or other document in connection with the duties and functions transferred to the Department of Veterans' Affairs pursuant to the Nebraska Veterans Services Act, such reference or designation shall apply to such department. All contracts entered into by the division prior to July 1, 2017, in connection with the duties and functions transferred to the department are hereby recognized, with the department succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts, grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be transferred and appropriated to the department for the payments of such obligations. All documents and records transferred, or copies of the same, may be authenticated or certified by the department for all legal purposes.

**Source:** Laws 2017, LB340, § 13.

**80-334 Existing suits and proceedings; how treated.**

No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2017, or which could have been commenced prior to that date, by or against the Division of Veterans' Homes of the Department of Health and Human Services, or the director or any employee thereof in such director's or employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from the Division of Veterans' Homes of the Department of Health and Human Services to the Department of Veterans' Affairs.

**Source:** Laws 2017, LB340, § 14.

**80-335 Law; how construed.**

On and after July 1, 2017, unless otherwise specified, whenever any provision of law refers to the Division of Veterans' Homes of the Department of Health and Human Services in connection with duties and functions transferred to the Department of Veterans' Affairs, such law shall be construed as referring to the department.

**Source:** Laws 2017, LB340, § 15.

**80-336 Repealed. Laws 2024, LB252, § 10.****80-337 Money or personal property to credit of member of veterans home; claim; disposition; procedure.**

Any claim to money or personal property in the hands of the department to the credit of a member of a veterans home shall be disposed of as provided in sections 83-153 to 83-156.

**Source:** Laws 2018, LB827, § 2.

## ARTICLE 4 VETERANS AID

### Cross References

Aid fund for veterans, county, see section 80-102.

#### Section

- 80-401. Nebraska Veterans' Aid Fund; Veterans' Aid Income Fund; created; purpose; use; investment; management.
- 80-401.01. Terms, defined.
- 80-401.02. Department of Veterans' Affairs; creation; director; qualifications; salary; bond or insurance; service officers and assistants; appointment.
- 80-401.03. Director; duties; assistants; state service office.
- 80-401.04. Department of Veterans' Affairs; jurisdiction; State Department of Education; functions.
- 80-401.05. Comprehensive Health Insurance Pool; board of directors; Department of Insurance; duties.
- 80-401.06. Veterans' Advisory Commission; members; appointment; qualifications.
- 80-401.07. Veterans' Advisory Commission; members; tenure of office.
- 80-401.08. Veterans' Advisory Commission; members; chairperson; expenses.
- 80-401.09. Veterans' Advisory Commission; duties; meetings.
- 80-401.10. Director; seal; adopt; rules and regulations; fiscal year.
- 80-401.11. Department of Veterans' Affairs; offices; employees.
- 80-401.12. Repealed. Laws 1967, c. 402, § 1.
- 80-402. Veterans aid; conscientious objectors denied relief.
- 80-403. Veterans relief; persons eligible; disbursements.
- 80-404. Department of Veterans' Affairs; powers; property, exemption from tax.
- 80-404.01. Repealed. Laws 1953, c. 326, § 5.
- 80-404.02. Repealed. Laws 1953, c. 326, § 5.
- 80-404.03. Repealed. Laws 1953, c. 326, § 5.
- 80-404.04. Commissioner of Education; federal funds; disbursement.
- 80-405. Veterans relief; obtaining by fraud; penalty.
- 80-406. County service committee; members; appointment.
- 80-407. County veterans service committee; duties; appointment of county veterans service officer; member of committee ineligible.
- 80-408. County veterans service officer; officers and employees; oath; bond.
- 80-409. County service committee; offices; tax; levy.
- 80-410. Director; deputy director; Veterans' Advisory Commission; state and county veterans service officers; qualifications.

- Section  
 80-411. Waiver of tuition and fees at institutions of higher education; qualifications; application; approval; effect.  
 80-412. Graves; Director of Veterans' Affairs; permanent registry.  
 80-413. Land used for veterans services; retrocession of jurisdiction.  
 80-414. Department of Veterans' Affairs; create and maintain registry; contents; military license plates; veteran designation on operator's license or state identification card; eligibility.  
 80-415. Veterans Employment Program Fund; created; use; investment.  
 80-416. Adoption of pet animal; financial support for veterans; program; administration.  
 80-417. Pets for Vets Cash Fund; created; use; investment.

**80-401 Nebraska Veterans' Aid Fund; Veterans' Aid Income Fund; created; purpose; use; investment; management.**

(1) There is hereby established a fund to be known as the Nebraska Veterans' Aid Fund. The Nebraska Investment Council is directed to purchase bonds or notes issued by the government of the United States or the State of Nebraska, or any county, school district, or municipality therein, with a face value of twelve million dollars, as of August 1, 1984, to carry out sections 80-401 to 80-405 and to place them in the custody and control of the State Treasurer of the State of Nebraska under the same conditions as other state money.

(2) Such fund shall be managed as follows: (a) When necessary to pay a premium for bonds for such fund, the amount of the premium shall be amortized over the term of the bonds from the interest received on such bonds; and (b) when bonds for such fund are purchased at a discount, the amount of the discount shall be used to purchase additional bonds, it being contemplated that the face amount of the bonds in such fund may in this manner aggregate in excess of twelve million dollars at some future time. Transfers may be made from the Nebraska Veterans' Aid Fund to the Veteran Cemetery Construction Fund at the direction of the Legislature until July 30, 2024. The State Treasurer shall transfer four million dollars from the Nebraska Veterans' Aid Fund to the Veteran Cemetery Construction Fund on July 15, 2023. The State Treasurer shall transfer four million dollars from the Nebraska Veterans' Aid Fund to the Veteran Cemetery Construction Fund on July 15, 2024.

(3) The interest on the Nebraska Veterans' Aid Fund, except so much as may be required for amortization of premium bond purchases as authorized in this section and so much as may be required to pay a pro rata share of the budget appropriated for the Nebraska Investment Council pursuant to section 72-1249.02, shall be paid to the Veterans' Aid Income Fund, which fund is hereby created. The Veterans' Aid Income Fund, when appropriated by the Legislature, shall be available to the Director of Veterans' Affairs for aid to needy veterans as authorized by law and for purposes of section 85-2706.

(4) The Nebraska Investment Council shall manage the Nebraska Veterans' Aid Fund, with investment and reinvestment to be made in the same type securities authorized for investment of funds by the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The director shall advise the Nebraska Investment Council when amounts in the Veterans' Aid Income Fund are not immediately required pursuant to this section. The state investment officer shall invest such amounts available from the Veterans' Aid Income Fund in the same manner as investments of the

Nebraska Veterans' Aid Fund, and the interest thereon shall also become a part of the Veterans' Aid Income Fund.

**Source:** Laws 1921, c. 40, § 1, p. 181; C.S.1922, § 6206; Laws 1923, c. 126, § 1, p. 311; Laws 1927, c. 194, § 1, p. 552; C.S.1929, § 80-401; R.S.1943, § 80-401; Laws 1945, c. 221, § 1, p. 659; Laws 1947, c. 306, § 1, p. 926; Laws 1951, c. 301, § 1, p. 990; Laws 1959, c. 422, § 1, p. 1419; Laws 1967, c. 486, § 44, p. 1531; Laws 1969, c. 584, § 94, p. 2404; Laws 1975, LB 234, § 1; Laws 1976, LB 867, § 1; Laws 1978, LB 733, § 1; Laws 1981, LB 157, § 1; Laws 1982, LB 255, § 1; Laws 1984, LB 38, § 1; Laws 1987, LB 786, § 2; Laws 1995, LB 7, § 95; Laws 2013, LB263, § 29; Laws 2023, LB818, § 23; Laws 2024, LB771, § 1.  
Effective date March 19, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.  
Nebraska State Funds Investment Act, see section 72-1260.  
Veteran Cemetery Construction Fund, see section 12-1301.

**80-401.01 Terms, defined.**

For purposes of sections 80-401 to 80-412, unless the context otherwise requires:

(1) Recognized veterans organization means the American Legion, the American Ex-Prisoners of War, the Disabled American Veterans, the Military Order of the Purple Heart, the Paralyzed Veterans of America, the Veterans of Foreign Wars of the United States, the Vietnam Veterans of America, and any other veterans organization which the Director of Veterans' Affairs determines (a) is recognized by the United States Department of Veterans Affairs for claims representation, (b) has a presence in each of this state's congressional districts, and (c) maintains a state headquarters sanctioned by its national organization;

(2) Veteran of the Spanish-American War means a person who served on active duty in the armed forces of the United States between April 21, 1898, and July 4, 1902, or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(3) Veteran of World War I means a person who served on active duty in the armed forces of the United States between April 6, 1917, and November 11, 1918, or who, being a resident of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(4) Veteran of World War II means a person who served on active duty in the armed forces of the United States between December 7, 1941, and December 31, 1946, or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(5) Veteran of the Korean War means a person who served on active duty in the armed forces of the United States between June 25, 1950, and January 31, 1955, or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(6) Veteran of the Vietnam War means a person (a) who served on active duty in the armed forces of the United States (i) between August 5, 1964, and May 7, 1975, or (ii) in the Republic of Vietnam between February 28, 1961, and May 7, 1975, and (b) who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(7) Veteran of Lebanon means a person who served on active duty in the armed forces of the United States between August 25, 1982, and February 26, 1984, or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(8) Veteran of Grenada means a person who served on active duty in the armed forces of the United States between October 23, 1983, and November 23, 1983, or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(9) Veteran of Panama means a person who served on active duty in the armed forces of the United States between December 20, 1989, and January 31, 1990, or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(10) Veteran of the Persian Gulf War means a person who served on active duty in the armed forces of the United States beginning on August 2, 1990, and ending on the date thereafter prescribed by presidential proclamation or by law, or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(11) Veteran of the Global War on Terror means a person who served on active duty in the armed forces of the United States beginning on September 14, 2001, and ending on the date thereafter prescribed by presidential proclamation or by law, or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(12) Active duty means full-time duty in the armed forces other than active duty for training; and

(13) Active duty for training means full-time duty in the armed forces performed by reserves for training purposes.

**Source:** Laws 1947, c. 306, § 2, p. 927; Laws 1951, c. 302, § 1, p. 993; Laws 1955, c. 328, § 1, p. 1024; Laws 1967, c. 562, § 1, p. 1853; Laws 1967, c. 561, § 2, p. 1849; Laws 1969, c. 754, § 1, p. 2835; Laws 1974, LB 621, § 1; Laws 1975, LB 90, § 3; Laws 1978, LB 571, § 1; Laws 1981, LB 221, § 1; Laws 1985, LB 49, § 1; Laws 1987, LB 626, § 2; Laws 1990, LB 857, § 1; Laws 1991, LB 720, § 1; Laws 1992, LB 835, § 4; Laws 1993, LB 2, § 1; Laws 1994, LB 241, § 1; Laws 2001, LB 368, § 2; Laws 2003, LB 799, § 1; Laws 2005, LB 54, § 29; Laws 2009, LB422, § 1.

**80-401.02 Department of Veterans' Affairs; creation; director; qualifications; salary; bond or insurance; service officers and assistants; appointment.**

There is hereby created a department of government to be known as the Department of Veterans' Affairs. The chief administrative officer of the department shall be the director to be known as the Director of Veterans' Affairs. He or she shall be appointed by the Governor, subject to confirmation by the Legislature. No person shall be eligible to receive appointment as director unless such person has the following qualifications: (1) Resident of the State of Nebraska for at least five years immediately prior to his or her appointment; (2) citizen of the United States; and (3) served in the armed forces of the United States during any of the periods identified in section 80-401.01 and discharged or otherwise separated with a characterization of honorable from such service. The director shall serve until a new director to succeed him or her is appointed and has qualified. If a vacancy occurs in the office of director when the Legislature is not in session, the Governor shall make a temporary appointment until the next meeting of the Legislature, when the Governor shall present to the Legislature a recommendation for the office. The director shall receive an annual salary to be fixed by the Governor, payable in equal monthly installments. He or she shall be reimbursed for expenses involved in the performance of his or her official duties as provided in sections 81-1174 to 81-1177. He or she shall be bonded or insured as required by section 11-201. The director shall appoint state service officers and assistants, whose appointments shall be approved by the Veterans' Advisory Commission.

The department shall be the designated state agency to advocate on behalf of veterans.

**Source:** Laws 1947, c. 306, § 3, p. 928; Laws 1951, c. 303, § 2, p. 995; Laws 1957, c. 367, § 7, p. 1291; Laws 1959, c. 423, § 1, p. 1421; Laws 1961, c. 413, § 1, p. 1241; Laws 1965, c. 537, § 1, p. 1687; Laws 1969, c. 754, § 2, p. 2837; Laws 1978, LB 653, § 29; Laws 1981, LB 204, § 166; Laws 1997, LB 396, § 21; Laws 2004, LB 884, § 38; Laws 2005, LB 54, § 30; Laws 2020, LB381, § 99.

#### Cross References

##### Constitutional provisions:

Bonds of heads of executive departments, see Article IV, section 26, Constitution of Nebraska.

Executive department heads, appointment and removal, see Article IV, sections 1 and 12, Constitution of Nebraska.

Official oath of executive officers, see Article XV, section 1, Constitution of Nebraska.

Reports to Governor, see Article IV, sections 22 and 23, Constitution of Nebraska.

**Bond of director and assistants,** see Chapter 11 and section 81-111.

**Official oaths of office,** see sections 11-101 to 11-101.02 and 81-110.

**Qualifications of director and other personnel,** see section 80-410.

**State administrative departments,** general provisions, see Chapter 81, article 1.

#### **80-401.03 Director; duties; assistants; state service office.**

(1) The Director of Veterans' Affairs shall be responsible for the administration of the income funds from the Nebraska Veterans' Aid Fund for the aid of needy veterans and their dependents.

(2) The Director of Veterans' Affairs, the deputy director, or a designee of the director shall receive and approve for payment or disapprove applications for aid which shall originate in any local post of any recognized veterans organization or with a county veterans service officer. If there are two or more local posts of one or more recognized veterans organizations in any community, no claimant can originate a claim in more than one such post at any given time and a period of at least thirty days shall elapse between the filing of claims. An application shall not be deemed to be filed until it has been received and filed in the office of the Director of Veterans' Affairs. The director may adopt and



promulgate such rules and regulations as may be necessary for administering such aid.

(3) No part of the interest accumulation of the Nebraska Veterans' Aid Fund shall be expended for the purpose of organizing and maintaining any veterans organization. There shall be expended under the direction of the Director of Veterans' Affairs such sum or sums as may be specifically appropriated by the Legislature for the employment of necessary assistants or deputies and clerical employees at such reasonable compensation as may be fixed by the director in each particular case and for the maintenance and expenses of a state service office with necessary service officers and assistants to prepare and present meritorious cases of ex-servicemen and ex-servicewomen for benefits before the United States Department of Veterans Affairs. Such cases shall be accepted by the state service officer on behalf of any claimant when a proper power of attorney is given by such claimant to the office of the Director of Veterans' Affairs or to a state service officer, if he or she is so designated by any recognized veterans organization as its sole representative, and regardless of where the cases originate. No part of such sum or sums is to be paid out of the twelve-million-dollar trust fund or the income therefrom. Upon the completion of the trust, the principal fund so held by the State Treasurer shall revert to the treasury of the state.

(4) For purposes of this section, veteran means any person who:

(a) Served on active duty in the armed forces of the United States, other than active duty for training, and who:

(i) Was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) from such service; or

(ii) Died while in service or as a direct result of such service; or

(b) Being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States during any period identified in section 80-401.01 and was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions).

**Source:** Laws 1947, c. 306, § 4, p. 928; Laws 1951, c. 304, § 1, p. 997; Laws 1951, c. 301, § 2, p. 991; Laws 1953, c. 326, § 1, p. 1078; Laws 1963, c. 497, § 1, p. 1587; Laws 1967, c. 563, § 1, p. 1856; Laws 1969, c. 754, § 3, p. 2838; Laws 1969, c. 755, § 1, p. 2843; Laws 1985, LB 49, § 2; Laws 1991, LB 2, § 24; Laws 1997, LB 441, § 1; Laws 2002, LB 977, § 1; Laws 2005, LB 54, § 31; Laws 2024, LB252, § 3.

Effective date July 19, 2024.

#### Cross References

##### Constitutional provisions:

Bonds of heads of executive departments, see Article IV, section 26, Constitution of Nebraska.

Executive department heads, appointment and removal, see Article IV, sections 1 and 12, Constitution of Nebraska.

Official oath of executive officers, see Article XV, section 1, Constitution of Nebraska.

Reports to Governor, see Article IV, sections 22 and 23, Constitution of Nebraska.

**Adoption and promulgation of rules and regulations**, see Chapter 84, article 9.

**Bond of director and assistants**, see Chapter 11 and section 81-111.

**Official oaths of office**, see sections 11-101 to 11-101.02 and 81-110.

**Qualifications of director and other personnel**, see section 80-410.

**State administrative departments**, general provisions, see Chapter 81, article 1.

**80-401.04 Department of Veterans' Affairs; jurisdiction; State Department of Education; functions.**

The Department of Veterans' Affairs shall have jurisdiction over the administration and supervision of all phases of activities under the on-the-job and apprenticeship training, on-the-farm training, and flight training programs for veterans carried on pursuant to Public Law 77 of the Ninetieth Congress, 38 U.S.C. chapter 34, and all amendments thereto, except the State Department of Education shall be the state agency for approving and certifying all educational or training institutions, as defined in Public Law 77 above mentioned, and related training in connection therewith.

**Source:** Laws 1947, c. 306, § 5, p. 930; Laws 1969, c. 754, § 4, p. 2839.

**80-401.05 Comprehensive Health Insurance Pool; board of directors; Department of Insurance; duties.**

The Board of Directors of the Comprehensive Health Insurance Pool and the Department of Insurance shall work closely with the Department of Veterans' Affairs to ensure the Veterans' Aid Income Fund and various federal benefits are utilized along with the Comprehensive Health Insurance Pool as resources for veterans and their families.

**Source:** Laws 1992, LB 835, § 3.

## Cross References

Comprehensive Health Insurance Pool Act, see section 44-4201.

**80-401.06 Veterans' Advisory Commission; members; appointment; qualifications.**

There is hereby created the Veterans' Advisory Commission, which shall consist of five members who shall be appointed by the Governor. No person shall be eligible to receive appointment as a member unless he or she (1) has been a resident of the State of Nebraska for at least five years immediately prior to his or her appointment, (2) has served in the armed forces of the United States during the dates set forth in section 80-401.01 and was discharged or otherwise separated with a characterization of honorable from such service, and (3) is a member of a recognized veterans organization. Such membership shall be certified to the Governor annually by the department adjutant of the recognized veterans organization. The Governor shall appoint one member of the Veterans' Advisory Commission from each of the three congressional districts in the state as the districts were constituted on January 1, 1962, and the fourth and fifth members shall be selected at large.

**Source:** Laws 1947, c. 306, § 7, p. 930; Laws 1953, c. 326, § 2, p. 1079; Laws 1961, c. 282, § 6, p. 827; Laws 1967, c. 563, § 2, p. 1857; Laws 1969, c. 754, § 5, p. 2839; Laws 2005, LB 54, § 32.

## Cross References

For qualification of members, see section 80-410.

**80-401.07 Veterans' Advisory Commission; members; tenure of office.**

The terms of office of the members of the Veterans' Advisory Commission initially appointed shall expire on March 1 of the years 1948, 1949, 1950, 1951 and 1952, as designated by the Governor in making the respective appointments. As the terms of members expire, the Governor shall, on or before March

1 of each year, appoint or reappoint a member of the commission for a term of five years to succeed the member whose term expires. Each member shall serve until the appointment and qualification of his successor. In case of a vacancy occurring prior to the expiration of the term of a member, the appointment shall be made only for the remainder of the term.

**Source:** Laws 1947, c. 306, § 8, p. 931.

**80-401.08 Veterans' Advisory Commission; members; chairperson; expenses.**

The members of the Veterans' Advisory Commission shall annually appoint one of its members as chairperson and one as secretary. The members of the commission shall each qualify by taking and subscribing an oath of office. No member shall receive any salary for his or her services, but each shall be reimbursed for expenses incurred by him or her in performing his or her duties as provided in sections 81-1174 to 81-1177.

**Source:** Laws 1947, c. 306, § 9, p. 931; Laws 1981, LB 204, § 167; Laws 1983, LB 369, § 4; Laws 2020, LB381, § 100.

**80-401.09 Veterans' Advisory Commission; duties; meetings.**

The Veterans' Advisory Commission shall be empowered to investigate the handling of veterans affairs under the jurisdiction of the Director of Veterans' Affairs, and to make recommendations and report to the Governor or the director on such matters. The commission shall also act as an appeal board, to whom recourse can be had by any individual or post of a recognized veterans organization from any decision made by the Director of Veterans' Affairs or any of his agents or deputies, on a claim for aid from the Nebraska Veterans' Aid Fund. The majority decision of the appeal board shall be final and shall govern in all matters presented to it upon which a hearing is had. The Veterans' Advisory Commission shall meet at least twice each year, or on call of the chairman or three members of the commission.

**Source:** Laws 1947, c. 306, § 10, p. 931; Laws 1969, c. 754, § 6, p. 2840.

**80-401.10 Director; seal; adopt; rules and regulations; fiscal year.**

The director shall, within thirty days after the creation of the Department of Veterans' Affairs, adopt a seal and make such rules and regulations for its administration, not inconsistent herewith, as he or she may deem expedient. He or she may, from time to time, amend such rules and regulations. The fiscal year of the department shall conform to the fiscal year of the state.

**Source:** Laws 1947, c. 306, § 11, p. 932; Laws 1981, LB 545, § 28.

**80-401.11 Department of Veterans' Affairs; offices; employees.**

Suitable offices shall be provided for the Department of Veterans' Affairs. The department may incur the necessary expense for office furniture, stationery, printing and other incidental or necessary expenses and employ such clerical and other employees and assistants as the department deems necessary for the proper transaction of its business.

**Source:** Laws 1947, c. 306, § 12, p. 932; Laws 2024, LB252, § 4.  
Effective date July 19, 2024.

## Cross References

**Annual property inventory**, requirement, see section 81-157.

**Basic workweek**, see sections 84-1001 to 84-1005.

**Qualifications of personnel**, see section 80-410.

**80-401.12 Repealed. Laws 1967, c. 402, § 1.**

**80-402 Veterans aid; conscientious objectors denied relief.**

No benefit shall accrue to, and none of the provisions of sections 80-401 to 80-405 shall apply to conscientious objectors who availed themselves of the privilege of any exemption from military duty.

**Source:** Laws 1921, c. 40, § 1, p. 181; C.S.1922, § 6206; Laws 1923, c. 126, § 1, p. 311; Laws 1927, c. 194, § 1, p. 552; C.S.1929, § 80-401; R.S.1943, § 80-402.

**80-403 Veterans relief; persons eligible; disbursements.**

(1) All money disbursed through the Director of Veterans' Affairs shall be expended by him or her in furnishing food, shelter, fuel, transportation, wearing apparel, or medical or surgical aid or in assisting with the funeral expenses of discharged veterans who come within one of the classes described in subsection (2) or (3) of this section.

(2) Such aid shall be provided upon application to veterans as defined in section 80-401.03, their widows, widowers, spouses, and their children age eighteen or younger or until age twenty-three if attending school full time, and at any age if the child was permanently incapable of self-support at age eighteen (a) who are legal residents of this state on the date of such application and (b) who may be in need of such aid.

(3) In cases in which an eligible veteran or widow or widower dies leaving no next of kin to apply for payment of expenses of last illness and burial, a recognized veterans organization or a county veterans service officer may apply, on behalf of the deceased, for assistance in paying such expenses. All such payments shall be made by the director. There may be expended, for purposes other than those set forth in this section, such sum or sums as may be specifically appropriated by the Legislature for such purposes.

**Source:** Laws 1921, c. 40, § 2, p. 182; C.S.1922, § 6207; Laws 1923, c. 126, § 2, p. 312; Laws 1927, c. 194, § 2, p. 554; C.S.1929, § 80-402; R.S.1943, § 80-402; Laws 1945, c. 221, § 2, p. 660; Laws 1947, c. 306, § 13, p. 932; Laws 1951, c. 305, § 1, p. 999; Laws 1963, c. 498, § 1, p. 1589; Laws 1967, c. 562, § 2, p. 1854; Laws 1967, c. 561, § 3, p. 1851; Laws 1969, c. 754, § 7, p. 2840; Laws 1971, LB 336, § 1; Laws 1979, LB 80, § 113; Laws 1997, LB 441, § 2; Laws 1999, LB 227, § 1; Laws 2008, LB904, § 1; Laws 2015, LB305, § 1.

**80-404 Department of Veterans' Affairs; powers; property, exemption from tax.**

The Department of Veterans' Affairs may (1) receive gifts, grants, bequests, contributions, or donations from public or private sources, (2) purchase or receive gifts of such real estate as may be necessary or advantageous for carrying out the duties and functions of the department, and (3) contract with public or private groups to conduct department business. All property of the

department shall be free from taxation during the period of time such property is held or used by the department.

**Source:** Laws 1921, c. 40, § 3, p. 183; C.S.1922, § 6208; C.S.1929, § 80-403; R.S.1943, § 80-404; Laws 1945, c. 221, § 3, p. 662; Laws 1947, c. 306, § 19, p. 933; Laws 2024, LB252, § 5. Effective date July 19, 2024.

**80-404.01 Repealed. Laws 1953, c. 326, § 5.**

**80-404.02 Repealed. Laws 1953, c. 326, § 5.**

**80-404.03 Repealed. Laws 1953, c. 326, § 5.**

**80-404.04 Commissioner of Education; federal funds; disbursement.**

The Commissioner of Education shall be entitled to receive any funds made available by the United States Government for the purpose of carrying out the program of approving and certifying educational and training institutions, and related training in connection therewith. Such funds shall be turned over to the State Treasurer, and disbursed upon vouchers approved by the commissioner, and warrants issued as provided by law.

**Source:** Laws 1947, c. 306, § 21, p. 935.

**80-405 Veterans relief; obtaining by fraud; penalty.**

Any person who shall knowingly, by fraudulent representations, obtain or attempt to obtain any payment or aid herein provided for shall be guilty of a Class II misdemeanor.

**Source:** Laws 1921, c. 40, § 5, p. 183; C.S.1922, § 6210; C.S.1929, § 80-405; R.S.1943, § 80-405; Laws 1953, c. 326, § 3, p. 1080; Laws 1977, LB 39, § 264.

**80-406 County service committee; members; appointment.**

To assist the Department of Veterans' Affairs in the performance of its duties, each county board shall appoint, in each county of the state, a county service committee as provided in section 80-101.

**Source:** Laws 1947, c. 306, § 14, p. 933.

**80-407 County veterans service committee; duties; appointment of county veterans service officer; member of committee ineligible.**

Each county veterans service committee shall cooperate with and assist the Department of Veterans' Affairs in the performance and discharge of its duties and functions. Each such county veterans service committee shall appoint, subject to confirmation by the county board, a county veterans service officer for its county after the applicant has been certified as eligible according to section 80-410 by the Director of Veterans' Affairs. Service officers appointed prior to March 27, 1969, shall also be certified as eligible. The county veterans service committee, in cooperation with the Department of Veterans' Affairs, shall issue a certificate of appointment, and establish a service center for the assistance of veterans, and is authorized to accept, for the purpose of carrying out its program of assistance to veterans, grants of funds from the county, municipalities, veterans, civic, religious, and fraternal organizations and

groups, and private citizens. The county boards of the counties involved, after meeting with the affected veterans service committees, are authorized to join two or more counties in the appointment of a county veterans service officer for a given area with the expenses to be shared by the counties involved. The county board and the county veterans service committee shall be authorized to appoint or place any veterans service officer on a part-time basis if such officer's service shall not require forty hours per week. Members of the county veterans service committee shall be ineligible to serve as county veterans service officers or assistant county veterans service officers.

**Source:** Laws 1947, c. 306, § 15, p. 933; Laws 1961, c. 414, § 1, p. 1242; Laws 1969, c. 754, § 8, p. 2841; Laws 1973, LB 220, § 8; Laws 1997, LB 269, § 64; Laws 2003, LB 83, § 1.

**80-408 County veterans service officer; officers and employees; oath; bond.**

Each county veterans service officer appointed under the provisions of section 80-407 and every other person entrusted with the funds of a county service committee shall qualify by taking the usual oath of office and shall each give bond in the sum of one thousand dollars, with corporate surety, conditioned for the faithful performance of his duty. The premiums for such bonds shall be paid by the county.

**Source:** Laws 1947, c. 306, § 16, p. 934.

**80-409 County service committee; offices; tax; levy.**

The county board of each county in this state shall provide, by special levy or out of the general fund of the county, such amount as is necessary for the use of the county service committee to aid and enable such county service committee to carry out and execute its functions, powers, and duties as defined in sections 80-401 to 80-401.11, 80-403, 80-404, 80-404.04, and 80-406 to 80-410 and to pay its expenses. The county board shall provide offices for the county veterans service officer in a location determined by the board.

**Source:** Laws 1947, c. 306, § 17, p. 934; Laws 2001, LB 10, § 2.

**80-410 Director; deputy director; Veterans' Advisory Commission; state and county veterans service officers; qualifications.**

(1) The Director of Veterans' Affairs, the deputy director, all members of the Veterans' Advisory Commission, and all state service officers shall have served in the armed forces of the United States during the dates set forth in section 80-401.01 and shall have been discharged or otherwise separated with a characterization of honorable from such service. A state service officer shall have been a bona fide resident of the State of Nebraska continuously for at least one year immediately prior to assuming his or her position.

(2) All county veterans service officers shall have served on active duty in the armed forces of the United States, other than active duty for training, shall have been discharged or otherwise separated with a characterization of honorable from the service, and shall have been bona fide residents of the State of Nebraska continuously for at least one year immediately prior to assuming any such position, except that if there is no applicant for county veterans service officer in a county who will have been a bona fide resident of the State of Nebraska continuously for at least one year prior to assuming such position, the one-year residency requirement may be waived.

(3) All members of the county veterans service committees and all personnel, except certain special and clerical help, of the county veterans service offices shall have all of the qualifications described in subsection (2) of this section, except that such persons may have been discharged or otherwise separated with a characterization of general (under honorable conditions).

**Source:** Laws 1947, c. 306, § 18, p. 934; Laws 1953, c. 326, § 4, p. 1080; Laws 1967, c. 563, § 3, p. 1857; Laws 1969, c. 754, § 9, p. 2842; Laws 2005, LB 54, § 33; Laws 2009, LB52, § 1; Laws 2014, LB737, § 1; Laws 2016, LB677, § 1.

**Cross References**

**Director**, qualifications of, see section 80-401.02.

**Veterans' Advisory Commission**, qualifications of members, see section 80-401.06.

**80-411 Waiver of tuition and fees at institutions of higher education; qualifications; application; approval; effect.**

(1) If the requirements of subsection (2) of this section are met, the University of Nebraska, the state colleges, and the community colleges shall waive the following for a dependent of a veteran:

(a) All tuition; and

(b) All fees remaining due after subtracting awarded federal financial aid grants and state scholarships and grants.

(2) A person shall be eligible for the waiver of tuition and such fees if he or she meets the following requirements:

(a) He or she is a resident of this state and meets the appropriate institution's requirements for establishing residency for the purpose of paying instate tuition;

(b) He or she has a parent, stepparent, or spouse who was a member of the armed forces of the United States and who:

(i) Died while on active duty;

(ii) Died of a service-connected disability;

(iii) Died subsequent to discharge as a result of injury or illness sustained while a member of the armed forces which may or may not have resulted in total disability;

(iv) Is permanently and totally disabled as a result of military service. Permanent and total disability does not include total ratings or other temporary ratings except total ratings based on individual unemployability if permanent; or

(v) While a member of the armed forces of the United States, is classified as missing in action or as a prisoner of war during armed hostilities; and

(c) If he or she is a child or stepchild of a person described in subdivision (2)(b) of this section, he or she is under the age of twenty-six years unless he or she serves on active duty with the armed forces after his or her eighteenth birthday but before his or her twenty-sixth birthday, in which case such period shall end five years after his or her first discharge or release from such duty with the armed forces, but in no event shall such period be extended beyond the thirty-first birthday.

(3) An application for a waiver shall be submitted on a form to be prescribed by the Director of Veterans' Affairs.

(4) If the Director of Veterans' Affairs or the director's designee determines that the applicant is eligible for the waiver, the director or the director's designee shall so certify to the institution in which the applicant desires to enroll. The decision of the director or the director's designee shall, in the absence of fraud or misrepresentation on the part of the applicant, be final and shall be binding upon the applicant and upon the institutions specified in this section. The director shall adopt and promulgate reasonable rules and regulations for the administration of this section.

(5) The waiver shall be valid for one degree, diploma, or certificate from a community college and one baccalaureate degree. Receipt of such degree, diploma, or certificate from a community college shall precede receipt of such baccalaureate degree.

**Source:** Laws 1965, c. 576, § 1, p. 1867; Laws 1967, c. 564, § 1, p. 1858; Laws 1973, LB 307, § 1; Laws 1975, LB 90, § 4; Laws 1979, LB 80, § 114; Laws 1993, LB 74, § 1; Laws 1999, LB 227, § 2; Laws 2001, LB 368, § 3; Laws 2013, LB180, § 1; Laws 2016, LB718, § 1; Laws 2024, LB252, § 6.  
Effective date July 19, 2024.

**Cross References**

**Educational assistance for military personnel**, see Chapter 80, article 9, and sections 85-505 to 85-508.

**80-412 Graves; Director of Veterans' Affairs; permanent registry.**

The Director of Veterans' Affairs shall make and preserve by counties a permanent registry of the graves of all persons who shall have served in the armed forces of the United States and whose mortal remains rest in Nebraska. The county veterans service officer of each county shall be charged with securing the information requested by the director of every person having a service record buried in that county and immediately forwarding such information to the office of the Director of Veterans' Affairs. Such information shall be secured from the undertaker in charge of the burial and shall be transmitted by him or her to the county veterans service officer of the county where burial is made and shall be recorded alphabetically and by description of location in the cemetery where buried, in a method as prescribed by the director and kept for that purpose in the office of the county veterans service officer.

**Source:** Laws 1971, LB 338, § 1; Laws 2005, LB 54, § 34; Laws 2024, LB252, § 7.  
Effective date July 19, 2024.

**Cross References**

**Veterans cemetery system**, authorized, see section 12-1301.

**Wyuka Cemetery**, soldiers' burial ground, see sections 12-104 and 12-105.

**80-413 Land used for veterans services; retrocession of jurisdiction.**

(1) The consent of the State of Nebraska is hereby given to the retrocession of jurisdiction, either partially or wholly, by the Veterans' Administration, an agency of the United States Government, over land owned by the United States within the boundaries of Nebraska, and the Governor of the state is hereby authorized to accept for the state such retrocession of jurisdiction.



(2) Retrocession of jurisdiction shall be effected upon written notice to the Governor by the principal officer of the Veterans' Administration having supervision and control over the land.

(3) This section shall apply only to the following lands:

(a) Land on which is located the Veterans' Administration Hospital, Omaha, Nebraska;

(b) Land on which is located the Veterans' Administration Hospital, Lincoln, Nebraska;

(c) Land on which is located the Veterans' Administration Hospital, Grand Island, Nebraska;

(d) Land on which is located the Fort McPherson National Cemetery, Maxwell, Nebraska; and

(e) Land on which is located the Omaha National Cemetery, Sarpy County, Nebraska.

**Source:** Laws 1975, LB 391, § 1; Laws 2015, LB640, § 1.

**80-414 Department of Veterans' Affairs; create and maintain registry; contents; military license plates; veteran designation on operator's license or state identification card; eligibility.**

(1) The Department of Veterans' Affairs shall create and maintain a registry of residents of Nebraska who meet the requirements for:

(a) Gold Star Family license plates under section 60-3,122.02;

(b) Military Honor Plates under section 60-3,122.04;

(c) Prisoner-of-war license plates under section 60-3,123;

(d) Disabled veteran license plates under section 60-3,124;

(e) Purple Heart license plates under section 60-3,125; and

(f) A veteran designation on an operator's license or a state identification card under section 60-4,189.

(2) The Department of Veterans' Affairs may adopt and promulgate rules and regulations governing the establishment and maintenance of the registry. The registry may be used to assist the department in carrying out the duties of the department and shall provide for the collection of sufficient information to identify an individual who qualifies for a license plate or designation listed in subsection (1) of this section. The registry may include information such as identifying information on an individual, an individual's records on active duty or reserve duty in the armed forces of the United States, or an individual's status of active duty, reserve duty, retired, discharged, or other.

(3) Any resident of Nebraska who meets the requirements for a license plate or designation listed in subsection (1) of this section shall register with the Department of Veterans' Affairs using the registry created by this section before being eligible for such license plate or designation. No person shall be deemed eligible until his or her status has been verified on the registry.

(4) The Department of Motor Vehicles may adopt and promulgate rules and regulations governing use of the registry of the Department of Veterans' Affairs for determination of eligibility for a license plate or designation listed in subsection (1) of this section.

(5) The eligibility requirements described in section 60-4,189 that are used in determining eligibility for a veteran designation on an operator's license or a state identification card shall apply only for purposes of such section and shall not apply in determining veteran status for any other purpose.

**Source:** Laws 2013, LB93, § 6; Laws 2014, LB383, § 11; Laws 2017, LB45, § 3; Laws 2019, LB192, § 5; Laws 2021, LB78, § 5.

**80-415 Veterans Employment Program Fund; created; use; investment.**

The Veterans Employment Program Fund is created. The fund shall consist of money credited pursuant to section 60-3,244 and any other money as appropriated by the Legislature. The fund shall be administered by the Department of Veterans' Affairs, which shall use the fund for recruiting and education to attract veterans recently released from service to live and work in Nebraska, including the development and implementation of a website as required by section 48-203. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 2019, LB138, § 19.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

**Nebraska State Funds Investment Act**, see section 72-1260.

**80-416 Adoption of pet animal; financial support for veterans; program; administration.**

The Department of Veterans' Affairs shall create a program for the purpose of providing financial support to veterans for the costs associated with adopting a pet animal. The department shall use the money credited to the Pets for Vets Cash Fund under section 60-3,250 to award grants to carry out the purposes of such program. The department may administer the program or contract with an organization dedicated to the care of dogs and cats to administer the program.

**Source:** Laws 2020, LB944, § 88.

**80-417 Pets for Vets Cash Fund; created; use; investment.**

The Pets for Vets Cash Fund is created for the purpose of administering the veteran grant program created under section 80-416. The fund shall consist of money credited to the fund pursuant to section 60-3,250. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 2020, LB944, § 89.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

**Nebraska State Funds Investment Act**, see section 72-1260.

**ARTICLE 5**

**VETERANS SERVICE COORDINATING COMMITTEE**

Section

80-501. Note: According to the provisions of section 80-507, the act comprising this article expired by its own limitation on June 30, 1947. The entire article has therefor been omitted.

**80-501 Note: According to the provisions of section 80-507, the act comprising this article expired by its own limitation on June 30, 1947. The entire article has therefor been omitted.**

**ARTICLE 6**

**MENTALLY ILL VETERANS**

Section

- 80-601. Veterans; mentally ill or dangerous sex offender; care or treatment by United States Department of Veterans Affairs; commitment; powers.
- 80-602. Veterans; mentally ill; hospital or facility operated by United States Department of Veterans Affairs; release.
- 80-603. Veterans; mentally ill; jurisdiction of courts.
- 80-604. Veterans; mentally ill; order of commitment by court of another state; effect.
- 80-605. Veterans; mentally ill; commitment; transfer; procedure.
- 80-606. Department of Health and Human Services; hospitals of federal government; lack of control.

**80-601 Veterans; mentally ill or dangerous sex offender; care or treatment by United States Department of Veterans Affairs; commitment; powers.**

Whenever in any proceeding under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act it is determined that a person is mentally ill and dangerous or a dangerous sex offender as defined in section 83-174.01 and it appears that such person is eligible for care or treatment by the United States Department of Veterans Affairs or another agency of the United States Government, the mental health board, upon determination by the department or such other agency that facilities are available and that such person is eligible for care or treatment therein, may commit such person to the department or other agency. Upon commitment, such person shall be subject to the applicable rules and regulations of the department or other agency of the United States operating the institution in which such care or treatment is provided. The chief officer of any facility of the department or institution operated by any other agency of the United States to which a mentally ill and dangerous person or a dangerous sex offender is committed by a proper agency in this state shall have the same powers as chief executive officers of state hospitals for the care of the mentally ill in this state with respect to the custody, transfer, conditional discharge, or discharge of such person.

**Source:** Laws 1947, c. 307, § 1, p. 936; Laws 1976, LB 806, § 88; Laws 1991, LB 2, § 25; Laws 2004, LB 1083, § 126; Laws 2006, LB 1199, § 84.

**Cross References**

Nebraska Mental Health Commitment Act, see section 71-901.  
Sex Offender Commitment Act, see section 71-1201.

**80-602 Veterans; mentally ill; hospital or facility operated by United States Department of Veterans Affairs; release.**

If, in the judgment of the chief officer of a hospital or facility operated or utilized within this state by the United States Department of Veterans Affairs, the release therefrom of a department patient would endanger his or her life or property or the lives or property of others, such chief officer is authorized, pending the initiation of commitment proceedings, to retain custody of such patient for a reasonable time, not to exceed ten days, after receiving written demand for the patient's release unless otherwise ordered by a court of competent jurisdiction notwithstanding that the patient shall have been admitted as a voluntary patient and without compliance with the admission procedures prescribed by law.

**Source:** Laws 1947, c. 307, § 2, p. 937; Laws 1991, LB 2, § 26.

**80-603 Veterans; mentally ill; jurisdiction of courts.**

Jurisdiction is retained in the appropriate courts of this state to determine at any time the necessity for continuance of restraint as provided by law.

**Source:** Laws 1947, c. 307, § 3, p. 937.

**80-604 Veterans; mentally ill; order of commitment by court of another state; effect.**

The judgment or order of commitment by a court or board of competent jurisdiction of another state or of the District of Columbia committing a person to the United States Department of Veterans Affairs or other agency of the United States Government for care or treatment shall have the same force and effect, as to the committed person while in this state, as in the jurisdiction in which is situated the court or board entering the judgment or making the order. The courts or boards of the committing state or of the District of Columbia shall be deemed to have retained jurisdiction of the person so committed for the purpose of inquiring into the mental condition of such person and determining the necessity for continuance of restraint. Consent is hereby given to the application of the law of the committing state or district in respect to the authority of the chief officer of any hospital or facility of the department or of any institution operated in this state by any other agency of the United States to retain custody of, transfer, parole, or discharge the committed person.

**Source:** Laws 1947, c. 307, § 4, p. 937; Laws 1991, LB 2, § 27.

**80-605 Veterans; mentally ill; commitment; transfer; procedure.**

The appropriate official of the United States Department of Veterans Affairs or other agency of the United States shall have authority to transfer any person committed to the United States Department of Veterans Affairs or other appropriate agency of the United States or to a hospital maintained by either to any other hospital operated by the United States Department of Veterans Affairs or any other agency of the United States, to any licensed private institution, or, subject to the prior approval of the Department of Health and Human Services, to any Nebraska state hospital for the mentally ill. The Department of Health and Human Services, upon written consent of the legal guardian of the patient or the written approval of the county board of mental health which committed such patient if no such guardian has been appointed, shall have the authority,

subject to eligibility and the prior approval of the appropriate official of the United States Department of Veterans Affairs or other appropriate agency of the United States Government, to transfer for care or treatment any patient committed to a Nebraska state hospital for the care of the mentally ill to the United States Department of Veterans Affairs or other appropriate agency of the United States Government. Upon any such transfer and notice thereof by mail to the committing court or the judge thereof or the committing board, the original commitment of such person shall be deemed to constitute commitment to the United States Department of Veterans Affairs or other agency of the United States or to the state hospital or licensed institution to which such person may, from time to time, be so transferred.

**Source:** Laws 1947, c. 307, § 5, p. 938; Laws 1947, c. 308, § 1, p. 939; Laws 1991, LB 2, § 28; Laws 1997, LB 307, § 214.

**Cross References**

**Department of Health and Human Services, institutions controlled by, see section 83-108.**

**80-606 Department of Health and Human Services; hospitals of federal government; lack of control.**

Nothing in sections 80-601 to 80-606 shall be construed as conferring upon the Department of Health and Human Services or other agency or officer of this state any power of licensing, supervision, inspection, or control over hospitals or other institutions operated by the United States Government or over the officers or employees therein.

**Source:** Laws 1947, c. 307, § 6, p. 939; Laws 1996, LB 1044, § 834.

**ARTICLE 7**

**MINOR VETERANS**

**Section**

80-701. Minority; effect.

**80-701 Minority; effect.**

The disability of minority of any person otherwise eligible for a loan or for guaranty or insurance of a loan pursuant to the Act of the Congress of the United States entitled the Servicemen's Readjustment Act of 1944, as heretofore or hereafter amended, and of the minor spouse of any eligible veteran in connection with any transaction entered into pursuant to such Act of the Congress of the United States, as heretofore or hereafter amended, shall not affect the binding effect of any obligation incurred by such eligible person or spouse as an incident to any such transaction, including incurring of indebtedness and acquiring, encumbering, selling, releasing, or conveying property or any interest therein, if all or part of any such obligation is guaranteed or insured by the federal government or the Secretary of Veterans Affairs pursuant to the act and amendments thereto or, if the secretary is the creditor, by reason of a loan or a sale pursuant to such act and amendments thereto. This section shall not create or render enforceable any other or greater rights or liabilities than would exist if neither such person nor such spouse were a minor.

**Source:** Laws 1953, c. 327, § 1, p. 1081; Laws 1991, LB 2, § 29.

ARTICLE 8

VIETNAM VETERANS EDUCATION LOANS

Section

- 80-801. Repealed. Laws 2001, LB 5, § 1.
- 80-802. Repealed. Laws 2001, LB 5, § 1.
- 80-803. Repealed. Laws 2001, LB 5, § 1.
- 80-804. Repealed. Laws 2001, LB 5, § 1.
- 80-805. Repealed. Laws 2001, LB 5, § 1.
- 80-806. Repealed. Laws 2001, LB 5, § 1.

**80-801 Repealed. Laws 2001, LB 5, § 1.**

**80-802 Repealed. Laws 2001, LB 5, § 1.**

**80-803 Repealed. Laws 2001, LB 5, § 1.**

**80-804 Repealed. Laws 2001, LB 5, § 1.**

**80-805 Repealed. Laws 2001, LB 5, § 1.**

**80-806 Repealed. Laws 2001, LB 5, § 1.**

ARTICLE 9

EDUCATION ASSISTANCE FOR MILITARY PERSONNEL

Cross References

National Guard, Nebraska, tuition assistance, see sections 85-505 to 85-508.  
Tuition waiver for dependent of veteran, see section 80-411.

Section

- 80-901. Member of Active Selected Reserve; tuition credit; amount; duration.
- 80-902. Tuition credit; conditions.
- 80-903. Member of Active Selected Reserve; responsibility to obtain certificate of performance; prerequisite to tuition credit.

**80-901 Member of Active Selected Reserve; tuition credit; amount; duration.**

Any Nebraska resident who is a member of a Nebraska-based unit of the Active Selected Reserve of the armed forces of the United States, who meets the requirements set forth in section 80-902 and complies with section 80-903, and who enrolls in any state-supported university, college, or community college in this state shall be entitled to a credit of (1) seventy-five percent of the resident tuition charges of such school for a diploma, certificate, associate degree, or baccalaureate degree program or (2) fifty percent of the resident tuition charges of such school for a graduate or professional degree program. Such entitlement shall be continuous so long as the member maintains satisfactory service in the Active Selected Reserve and pursues a course of study in a manner which satisfies the normal requirements of the university, college, or community college.

**Source:** Laws 1976, LB 266, § 1; Laws 2021, LB4, § 1.

**80-902 Tuition credit; conditions.**

(1) In order to qualify for the tuition credit provided for in section 80-901, a member of the Active Selected Reserve shall have agreed to serve a minimum of three years in the reserve and pursue a course of study leading to a diploma,

certificate, associate degree, baccalaureate degree, graduate degree, or professional degree.

(2) There shall be no lifetime limit on tuition credit for any qualifying member.

(3) Such entitlement shall not be granted to more than two hundred individuals in any calendar year.

**Source:** Laws 1976, LB 266, § 2; Laws 2021, LB4, § 2.

**80-903 Member of Active Selected Reserve; responsibility to obtain certificate of performance; prerequisite to tuition credit.**

It shall be the responsibility of the individual member of the Active Selected Reserve to obtain a certificate from the member's commanding officer attesting to the member's satisfactory performance and to submit it to the Director of Veterans' Affairs who, if finding that granting the entitlement will not exceed the limitation of entitlements provided in section 80-902, shall endorse the certificate of performance as approved and return it to the member for presentation to the college or university in order to obtain tuition credit upon initial enrollment. Such certification, without the necessity of endorsement by the Director of Veterans' Affairs, shall be accomplished and presented at the time of enrollment for each subsequent term for which tuition credit is requested.

**Source:** Laws 1976, LB 266, § 3; Laws 2021, LB4, § 3.

**ARTICLE 10**

**STATE SERVICE PROVIDERS**

Section

80-1001. Service providers; intake forms and interviews; question regarding military service; departments; duties.

**80-1001 Service providers; intake forms and interviews; question regarding military service; departments; duties.**

The Department of Health and Human Services and Department of Veterans' Affairs shall work jointly to encourage service providers in their respective departments and in other state and local agencies and departments to ask the question "Have you or a family member ever served in the military?". The question should be included in intake forms and interviews where appropriate, including, but not limited to, at hospitals, mental health care centers, senior centers, employment offices, courts, and schools and in encounters with law enforcement.

**Source:** Laws 2020, LB755, § 46.