

LEGISLATIVE BILL 245

Approved by the Governor April 15, 1992

Introduced by Withem, 14

AN ACT relating to schools and school districts; to amend sections 10-716.01 and 23-3306, Reissue Revised Statutes of Nebraska, 1943, sections 43-2007, 77-3438.01, 79-101.01, 79-101.02, 79-201.09, 79-402, 79-402.03, 79-402.04, 79-402.13 to 79-402.20, 79-426.02, 79-426.19, 79-426.28, 79-436, 79-437.03, 79-438.08, 79-438.12, 79-445, 79-446.01 to 79-448, 79-449.01, 79-451, 79-458, 79-494, 79-497, 79-498, 79-4,102, 79-4,103, 79-4,104, 79-4,105.01, 79-4,158.01, 79-4,159, 79-4,222, 79-4,224, 79-516.08, 79-547.04, 79-606 to 79-610, 79-701, 79-1103, 79-1247.05, 79-1247.07, 79-1254.02, 79-12,115.01, 79-1303, 79-1304, 79-1369, 79-1914, 79-2212, 79-3304, 79-3336, 79-3415, 79-3703, 79-3803, 79-3804, 79-3806, 79-3807, 79-3808, 79-3809, 79-3810, 79-3811, 79-3813, 79-3815, 79-3817, 79-3820, 79-3822, 79-3823, and 79-3824, Revised Statutes Supplement, 1991, sections 77-3437, 77-3438, 79-2203, 79-3816, 79-3818, and 79-3819, Revised Statutes Supplement, 1991, as amended by sections 190, 191, 200, 203, 204, and 205, respectively, Legislative Bill 1063, Ninety-second Legislature, Second Session, 1992, Laws 1988, LB 940, section 19, as amended by Laws 1991, LB 511, section 90, Laws 1988, LB 940, section 18, as amended by Laws 1990, LB 259, section 34, and by Laws 1991, LB 511, section 89, and Laws 1991, LB 511, sections 91 to 94; to create the Nebraska Schools Accountability Commission; to state intent; to provide for membership on the commission; to provide powers and duties; to provide a termination date; to create a fund; to restate and eliminate provisions relating to education and appropriations; to provide for the validity of certain acts and appropriations; to provide severability; to repeal the original sections, and also sections 79-493, 79-4,160, 79-1247.15, 79-12,142 to 79-12,144, 79-12,146 to

79-12,152, and 79-1912, Reissue Revised Statutes of Nebraska, 1943, and sections 79-438.09 to 79-438.11, 79-4,223, and 79-12,145, Revised Statutes Supplement, 1990; and to declare an emergency.

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

Section 1. (1) The Legislature finds and declares that:

(a) The public school system in Nebraska is a multimillion-dollar enterprise which demands accountability to parents, to taxpayers, to employers, and, most importantly, to students;

(b) Nebraska is in need of a comprehensive and reliable system of accountability for student performance in the public school system;

(c) Nebraska needs to establish standards for learner outcomes which match the demands of citizens and workers in the twenty-first century;

(d) Current state accountability processes do not adequately measure student achievement nor the success or failure of the public schools in helping students master specific outcomes; and

(e) Nebraska needs a statewide system of accountability for determining achievement of learner outcomes.

(2) It is the intent of the Legislature to establish a process for the (a) identification of state standards for learner outcomes which are critical to the future of the state and (b) development, through a systematic and comprehensive public process, of a valid, accurate, and educationally sound system of assessing the progress of Nebraska students in achieving those outcomes.

Sec. 2. There is hereby created the Nebraska Schools Accountability Commission. The commission shall consist of eleven members as follows: One representative from the Governor's office, two public school classroom teachers, two administrators or administrative staff members, two parents, one representative of postsecondary education, one school board member, one representative of business and industry, and one representative of agriculture, all appointed by the Governor upon the recommendations of associations and organizations representing parents, teachers, school administrators, and school board members. Members shall be appointed no later than July 15, 1992, and shall serve for the life of the commission. Members shall not receive a per diem.

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

Sec. 3. (1) Phase I of the development of the accountability system shall begin September 1, 1992, and end September 1, 1994. The Nebraska Schools Accountability Commission shall develop broad curriculum frameworks and standards for learner outcomes which shall be based upon the frameworks, standards, and assessments determined by the School Restructuring Commission, including the curriculum areas listed in section 4 of this act. It is the intent of the Legislature that local school boards retain responsibility for the content of the instructional programs within the broad curriculum frameworks.

(2) Phase II shall begin May 1, 1993, and end on May 1, 1996. Phase II shall provide for the development of a reliable, accurate, and educationally sound system of assessing student progress towards achieving the standards for learner outcomes determined pursuant to subsection (1) of this section.

Sec. 4. The Nebraska Schools Accountability Commission and the State Department of Education may work with other states or a multistate consortium to develop a system of authentic assessment of learner outcomes in mathematics, science, reading, language arts, and social studies. The department shall provide staff support to the commission in all phases. The commission shall also be charged with the development of the accountability system and shall report the progress of such development to the Legislature and the State Board of Education on an annual basis.

Sec. 5. The accountability system shall be completed not later than July 1, 1996, and the Nebraska Schools Accountability Commission shall terminate on such date.

Sec. 6. The Nebraska Schools Accountability Commission Cash Fund is hereby created. Any funds appropriated by the Legislature to carry out sections 1 to 5 of this act and any other money received pursuant to such sections shall be credited to the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 7. That section 10-716.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

10-716.01. Following the affiliation of two or more school districts, bonds may be issued pursuant

to sections 10-701 to 10-716 for purposes of capital additions to or improvements or replacement of high school, middle school, or junior high school facilities which will be used by Class I district students residing in an affiliated Class I district upon the approval of a majority of ~~all~~ the legal voters of the high school district and affiliated Class I district or districts or portions thereof voting on the issue as a combined voting unit. The bond levy applicable to property within an affiliated Class I district which is necessary to redeem the bonds issued pursuant to this section shall be prorated based on the grade levels of affiliated Class I students who, pursuant to section 79-486, are provided instruction at planned facilities based on criteria established by the State Department of Education if the facility will be used by elementary as well as high school students. The pro rata share of the costs of the facility to be assigned to the high school, middle school, or junior high facilities which will be used by Class I students residing in an affiliated Class I district shall be included in the statement required to be filed pursuant to section 10-707.

Sec. 8. That section 23-3306, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-3306. The county superintendent, on or before June 1 of each year, shall furnish to the county assessor a map showing the number and metes and bounds of every each school district or part of a school district within the county.

Sec. 9. That section 43-2007, Revised Statutes Supplement, 1991, be amended to read as follows:

43-2007. (1) Upon notification by the patrol of a missing person, any school in which ~~such the~~ missing person is currently or was previously enrolled shall flag the school records of such person in such school's possession. The school shall report immediately any request concerning a flagged record or any knowledge of the whereabouts of ~~such the~~ missing person.

(2) Upon enrollment of a student for the first time in a public school district or private school system, the school of enrollment shall notify in writing the person enrolling the student that within thirty days he or she must provide either (a) a certified copy of the student's birth certificate or (b) other reliable proof of the student's identity and age accompanied by an affidavit explaining the inability to produce a copy

of the birth certificate.

(3) The parent or guardian of a child who is receiving his or her education in a home school subject to sections 79-1701 to 79-1707 shall, not later than October 1 of the first year of the child's attendance at the home school, provide to the Commissioner of Education either (a) a certified copy of the child's birth certificate or (b) other reliable proof of the child's identity and age accompanied by an affidavit explaining the inability to produce a copy of the birth certificate.

(4) Upon failure of the person, parent, or guardian to comply with subsection (2) or (3) of this section, the school or Commissioner of Education shall notify such person, parent, or guardian in writing that unless he or she complies within ten days the matter shall be referred to the local law enforcement agency for investigation. If compliance is not obtained within such ten-day period, the school or commissioner shall immediately report such matter. Any affidavit received pursuant to subsection (2) or (3) of this section that appears inaccurate or suspicious in form or content shall be reported immediately to the local law enforcement agency by the school or commissioner.

(5) Any school requested to forward a copy of a transferred student's record shall not forward a copy of such record to the requesting school if the record has been flagged pursuant to subsection (1) of this section. If such record has been flagged, the school to whom such request is made shall notify the local law enforcement agency of the request and that such student is a reported missing person.

Sec. 10. That section 77-3437, Revised Statutes Supplement, 1991, as amended by section 190, Legislative Bill 1063, Ninety-second Legislature, Second Session, 1992, be amended to read as follows:

77-3437. For purposes of sections 77-3437 to 77-3440:

(1) Adopted budget statement shall have the definition found in section 13-503;

(2) Fiscal year shall have the definition found in section 13-503;

(3) Governing body shall have the definition found in section 13-503, except that governing body shall not include a school board or board of education of a school district;

(4) Growth shall mean any property tax revenue received from real property as the result of new construction, additions to existing buildings, and any

improvements to real property which increase the value of such property but shall not include any increased property tax revenue received due (a) to a change in valuation of a class or a subclass of property or (b) to revaluations of individual properties; and

(5) Property taxes shall mean all revenue budgeted to be received from the levy of taxes on property, including receipts from reimbursements under sections 77-27,138.01 and 77-3523, but shall not include (a) property taxes budgeted to be collected for retirement of bonded indebtedness or for projects and practices in accordance with section 2-3229 and necessary works incident to such projects and practices or (b) revenue received as a result of growth.

Sec. 11. That section 77-3438, Revised Statutes Supplement, 1991, as amended by section 191, Legislative Bill 1063, Ninety-second Legislature, Second Session, 1992, be amended to read as follows:

77-3438. (1) Except as provided in sections 77-3438.01, 77-3439, and 77-3440, no governing body shall adopt a budget statement pursuant to section 13-506 or pursuant to the charter or ordinance of a city with a home rule charter in which the anticipated aggregate receipts from property taxes for any fiscal year exceed the anticipated aggregate receipts from property taxes for the prior fiscal year or, for a governing body which budgeted no revenue to be received from the levy of taxes on real and personal property in such year, the most recent fiscal year prior to such year for which the governing body did budget to receive property taxes.

(2) A governing body may increase property taxes by a specific dollar amount greater than that permitted by subsection (1) of this section if a final order of a court from which no appeal is taken requires reimbursement by the governing body of property taxes to a taxpayer. ~~Such~~ The increase shall not exceed the amount of the reimbursement.

(3) A county board may increase property taxes by a specific dollar amount greater than that permitted by subsection (1) of this section not to exceed the dollar amount of reduction in state aid to the county resulting from the changes made to section 77-27,136 by this legislative bill.

(4) For political subdivisions that have annexed property or have consolidated after December 15, 1989, the anticipated aggregate receipts from property taxes shall be computed based on the combined aggregate property taxes of each subdivision in the fiscal year

immediately preceding consolidation.

Sec. 12. That section 77-3438.01, Revised Statutes Supplement, 1991, be amended to read as follows:

77-3438.01. (1) ~~The provisions of section~~ Section 77-3438 shall not apply to revenue budgeted to be received from property taxes of a political subdivision for the purchase or repair of emergency equipment or vehicles designed for the prevention of loss of life and property damage under the following conditions:

(a) The political subdivision has received total average property taxes of less than one hundred fifty thousand dollars for the immediately preceding five-year period; and

(b) A committee consisting of the State Fire Marshal, the State Forester, and the Director of the Nebraska Fire Service, or their designees, has certified that the purchase or repair is necessary for the protection of human life and property in the jurisdiction of the political subdivision. The specifications for the purchase or repair shall be determined by the political subdivision.

(2) Amounts which are exempt under this section from the provisions of section 77-3438 shall not become a part of the political subdivision's property taxes for any base year.

Sec. 13. That section 79-101.01, Revised Statutes Supplement, 1991, be amended to read as follows:

79-101.01. (1) For purposes of the statutes governing schools:

(a) Affiliated school system shall mean the high school district and the Class I districts or portions of Class I districts affiliated with ~~that~~ such high school district; and

(b) Affiliation or affiliation of school districts shall mean an ongoing association of a Class I district or portion thereof not a part of a Class VI district with one or more existing Class II, III, IV, or V districts for the purpose of (i) providing a high school program serving the Class I district students and (ii) maintaining tax support to finance such program. The services provided may include student transportation.

(2) Beginning January 1, 1992, any school district boundaries changed by any of the means provided by Nebraska law, including the methods provided by sections 79-102.01, 79-102.02, 79-402, 79-402.03 to

79-402.10, 79-402.17, 79-402.19, 79-402.20, 79-403 to 79-403.03, 79-406, 79-407, 79-408, 79-408.01 to 79-408.03, 79-409, 79-420, 79-421, 79-426.01 to 79-426.19, 79-426.23 to 79-426.26, 79-426.28, 79-480 to 79-482, 79-486, 79-512, 79-533, 79-603, 79-701, 79-1107, and 79-1108 but excluding the method provided by sections 79-801 to 79-810.01, shall be made only upon an order issued by the county superintendent. If the boundaries so changed are in more than one county, such order shall be issued jointly by the county superintendents of all counties involved. The order shall be certified to the county clerk of each county in which boundaries are changed, and shall also be certified to the State Department of Education. Such order shall be issued between January 1 and June 1 of the current school fiscal year and shall have an effective date no later than August 1 of the current school fiscal year. For purposes of the school district boundary map provided by the county superintendent pursuant to section 23-3306, determining school district counts pursuant to section 79-458, calculating nonresident high school tuition pursuant to section 79-4.102, and calculating state aid allocations pursuant to the Tax Equity and Educational Opportunities Support Act, any change in school district boundaries with an effective date between June 1 and August 1 of any year shall be considered effective June 1 of such year.

Sec. 14. That section 79-101.02, Revised Statutes Supplement, 1991, be amended to read as follows:

79-101.02. For purposes of sections 10-716.01, 79-101.01, 79-101.02, 79-402.11, 79-402.13 to 79-402.20, 79-426.17, 79-426.28, 79-437.03, 79-438.08, 79-438.12, 79-490, and 79-4.222:

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

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

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

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

(5) High school students shall mean students

enrolled in a high school program.

Sec. 15. That section 79-201.09, Revised Statutes Supplement, 1991, be amended to read as follows:

79-201.09. The State Board of Education shall adopt and promulgate rules and regulations necessary ~~for~~ the implementation of to carry out sections 79-201.01 to 79-201.09.

Sec. 16. That section 79-402, Revised Statutes Supplement, 1991, be amended to read as follows:

79-402. (1) The county superintendent shall create a new school district from other districts, change the boundaries of any district, or affiliate a Class I district or portion thereof with one or more existing Class II, III, IV, or V districts upon receipt of petitions signed by sixty percent of the legal voters of each district affected, except that petitions shall contain signatures of at least sixty-five percent of the legal voters of each district affected if the proposed change has been disapproved by both the state and county committees for school district reorganization or, in the case of affiliation, if the petition has been disapproved by the county committee pursuant to sections 79-402.14 and 79-402.15. When area is added to a Class VI district or when a Class I district which is entirely or partially within a Class VI district is taken from the Class VI district, the Class VI district shall be deemed to be an affected district.

(2) Petitions proposing to change the boundaries of existing school districts through the transfer of a parcel of land, not to exceed six hundred forty acres, may be acted upon and so transferred by order of the county superintendent when the petitions involve the transfer of land between Class III, IV, or V school districts or when there would be an exchange of parcels of land between Class III, IV, or V school districts if the petitions have the approval of at least sixty-five percent of each board of education. ~~Petitions prepesing which propose~~ to change the boundaries of existing school districts through the transfer of a parcel of land, not to exceed six hundred forty acres, may be acted upon and so transferred by order of the county superintendent when the petitions involve the transfer of a parcel of land from a Class I or a Class II school district to a school district of a higher classification if the petition has the approval of sixty-five percent of the legal voters or the board of education of each affected school district as set

forth in this section or section 79-402.03.

(3)(a) Petitions proposing to create a new school district, to change the boundary lines of existing school districts, to create an affiliated school system, or to affiliate a Class I district in part and to join such district in part with a Class VI district, any of which involves the transfer of more than six hundred forty acres, shall, when signed by at least sixty percent of the legal voters in each district affected, be submitted to the county committee for school district reorganization. In the case of a petition for affiliation or a petition to affiliate in part and in part to join a Class VI district, the county committee shall review the proposed affiliation subject to sections 79-402.14 and 79-402.15. The county committee shall, within forty days, review and approve or disapprove such proposal and submit it to the state committee for school district reorganization, except that an affiliation petition or a petition to affiliate in part and in part to join a Class VI district shall not be submitted to the state committee and the county committee's approval or disapproval shall be final.

(b) The state committee shall, within forty days, review and approve or disapprove the proposal and return it with any recommendations deemed advisable to the county committee. The county committee shall, within fifteen days of receipt of the returned proposal, consider the action of the state committee and determine whether to give final approval or disapproval to the proposal.

(c) The county committee shall, within fifteen days of receipt of the returned proposal or of the committee's final approval or disapproval of an affiliation petition or a petition to affiliate in part and in part to join a Class VI district, advertise and hold a public hearing at which the recommendations and action of the state and county committees are presented to the legal voters in attendance. The county committee shall hold the petitions for ten days following the hearing at the end of which time the committee shall file the petitions with the county superintendent.

(d) The county superintendent shall, within fifteen days, advertise and hold a hearing to determine the validity and sufficiency of the petitions. Upon determination, as a result of the hearing, that sufficient valid signatures are contained in the respective petitions, the county superintendent shall proceed 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 county superintendent 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 shall be permitted to withdraw his or her name therefrom and a legal voter shall be permitted to add his or her name thereto at any time prior to the end of the ten-day period when the county committee files such petitions with the county superintendent. Additions and withdrawals of signatures shall be by notarized affidavit filed with the county superintendent.

Sec. 17. That section 79-402.03, Revised Statutes Supplement, 1991, be amended to read as follows:

79-402.03. (1) In addition to the petitions of legal voters pursuant to section 79-402, changes in boundaries and the creation of a new school district from other districts may be initiated and accepted by:

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

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

(2) In addition to the petitions of legal voters pursuant to section 79-402, the affiliation of a Class I district or portion thereof with one or more Class II, III, IV, or V districts may be initiated and accepted by:

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

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

Sec. 18. That section 79-402.04, Revised Statutes Supplement, 1991, be amended to read as follows:

79-402.04. When the legal voters of a Class I or II school district in which no city or village is located petition to merge in whole or in part with a Class I or Class II district, ~~such~~ the merger may be accepted by petition of the board of education of the accepting district. When the legal voters of a Class I district petition to affiliate in whole or in part with one or more Class II, III, IV, or V districts, such

affiliation may be accepted or rejected by petition of the board of education of any such district, but in either case such the petition to affiliate shall be accepted or rejected within sixty days of the date of receipt of the petition by the board of education of such district.

Sec. 19. That section 79-402.13, Revised Statutes Supplement, 1991, be amended to read as follows:

79-402.13. Any A Class I district or portion thereof which is not part of a Class VI district on July 10, 1990, may, prior to February 1, 1993, file a petition for affiliation pursuant to section 79-402, 79-402.03, or 79-402.04 or a plan for affiliation pursuant to section 79-426.08 with the county superintendent to affiliate with one or more Class II, III, IV, or V districts, or to affiliate in part with one or more Class II, III, IV, or V districts and in part to become part of one or more Class VI districts. Affiliation shall be accomplished pursuant to any of the procedures provided prescribed in sections 79-402 to 79-402.08 and the Reorganization of School Districts Act.

Sec. 20. That section 79-402.14, Revised Statutes Supplement, 1991, be amended to read as follows:

79-402.14. If a petition for affiliation pursuant to section 79-402, 79-402.03, or 79-402.04 or plan for affiliation proposed under section 79-426.08 is rejected by the board of education or legal voters of a Class II, III, IV, or V school district, such petition or plan may be resubmitted after sixty days from the date of such the rejection, and the board of education or legal voters receiving such petition or plan for affiliation shall either accept or reject such petition or plan within sixty days of the date of receipt of such petition or plan. If the petition or plan for affiliation is again rejected by the board or legal voters of such district, the county committee for school district reorganization shall hold a hearing pursuant to the procedures provided in section 79-402 and, within ten days of such hearing, make a determination whether to approve or reject the affiliation.

Sec. 21. That section 79-402.15, Revised Statutes Supplement, 1991, be amended to read as follows:

79-402.15. A county committee for school district reorganization, when considering a petition or a plan to affiliate a Class I school district or portion

thereof with one or more Class II, III, IV, or V school districts, shall consider the traditional high school attendance patterns of resident students of such Class I district. The county committee may reject a petition or plan to affiliate only when (1) no Class I district resident student has attended the high school program of the Class II, III, IV, or V district with which an affiliation is proposed during the immediately preceding ten-year period, (2) the affiliation would require the construction of new high school facilities, or (3) the affiliation would result in assignment of less than forty percent of the valuation of the Class I district to a high school district which over the immediately preceding five-year period has educated eighty percent or more of the students from such Class I district. The petition shall stand rejected notwithstanding that it has been signed by over sixty-five percent of the legal voters of the petitioning Class I district.

Sec. 22. That section 79-402.16, Revised Statutes Supplement, 1991, be amended to read as follows:

79-402.16. A petition for affiliation pursuant to sections 79-402, 79-402.03, and 79-402.04 and a plan for affiliation pursuant to section 79-426.08 shall contain (1) a description and a map of the proposed boundaries of the affiliated school system and (2) terms of the affiliation, including (a) coordination of elementary curriculum subject to section 79-4,158.01 and (b) provision for the establishment and maintenance of an advisory committee as prescribed by section 79-4,105.01. An affiliation plan or a petition may include provisions allowing parents to continue educating their children in the district in which they currently have children enrolled with reimbursement to be paid to the receiving district from the affiliated high school district based on the per pupil cost for high school students of such districts as reported on the preceding year's annual financial report.

Sec. 23. That section 79-402.17, Revised Statutes Supplement, 1991, be amended to read as follows:

79-402.17. (1) If any a Class I district or portion thereof which is not part of a Class VI district and which does not have territory in more than one county has not (a) merged, affiliated, or approved a plan for merging or affiliating with a Class II, III, IV, or V district or (b) approved a plan to become part of or a plan to affiliate in part and in part to become part of one or more existing or new Class VI districts

prior to before February 1, 1993, the county committee for the reorganization of school districts shall plan to (i) dissolve and attach such district to an existing Class II, III, IV, or V district or (ii) make such district part of an existing Class VI district on or before July 1, 1993.

(2) If any Class I district or portion thereof which is not part of a Class VI district and which has territory in more than one county has not (a) merged, affiliated, or approved a plan for merging or affiliating with a Class II, III, IV, or V district or (b) approved a plan to become part of one or more existing or new Class VI districts or to affiliate in part with one or more Class II, III, IV, or V districts and in part become part of one or more existing or new Class VI districts prior to February 1, 1993, a joint committee, as provided in section 79-426.09, shall plan to (i) dissolve and attach such district to an existing Class II, III, IV, or V district or (ii) make such district part of an existing Class VI district on or before July 1, 1993.

Sec. 24. That section 79-402.18, Revised Statutes Supplement, 1991, be amended to read as follows:

79-402.18. Prior to Before March 1, 1993, the county committee for the reorganization of school districts or joint reorganization committee shall set a date for a hearing to determine to which district or districts the territory of the Class I district specified in section 79-402.17 shall be attached or added and shall give fifteen days' notice by certified or registered mail of the time and the place of hearing to the board of education of each district having grades kindergarten through twelve which may be affected by such attachment or addition. Public notice of the hearing shall also be given within fifteen days prior to the hearing date by publication once each week for two consecutive weeks in a newspaper of general circulation in the county or counties involved. Following such hearing, the county or joint reorganization committee shall notify the county superintendent to which district or districts such territory will be attached or added and the county superintendent shall attach or add such territory on or before July 1, 1993.

Sec. 25. That section 79-402.19, Revised Statutes Supplement, 1991, be amended to read as follows:

79-402.19. If, by May 1, 1993, the county committee for the reorganization of school districts or

joint reorganization committee has failed fails to plan to dissolve and attach all Class I districts specified in section 79-402.17 to an existing district or gives notice that it will not be able to meet the requirements prescribed by law to implement section 79-426.28, each member of the committee shall be penalized by a fine equal to the total amount reimbursed as expenses to such member for serving on the committee during the previous twelve-month period, and the matter shall be referred to the State Committee for the Reorganization of School Districts which shall attach or add the territory to an existing district on or before September 1, 1993.

Sec. 26. That section 79-402.20, Revised Statutes Supplement, 1991, be amended to read as follows:

79-402.20. (1) After July 1, 1993, an affiliated Class I district which becomes subject to dissolution pursuant to section 79-420 or 79-603 may merge with an existing affiliated Class I district. Any such The Class I district which merges with another affiliated district pursuant to this section shall continue its affiliation with the high school district with which it was affiliated prior to its becoming subject to section 79-420 or 79-603. If such Class I district chooses not to merge with any affiliated district, the county superintendent shall, before the next school year, dissolve and attach the property of such Class I district to the district or districts with which such Class I district was affiliated prior to becoming subject to section 79-420 or 79-603. A Class II district which becomes a Class I district pursuant to section 79-701 shall merge with a Class II, III, IV, or V district, affiliate with one or more Class II, III, IV, or V districts, become part of a Class VI district, or affiliate in part with one or more Class II, III, IV, or V districts and in part become part of a Class VI district not later than the school year immediately following the school year when such district becomes a Class I district or becomes subject to sections 79-402.17 to 79-402.19.

(2) After July 1, 1993, if an affiliated Class I district dissolves, unless otherwise stated in the affiliation petition, the Class I district may, in whole or in part, be merged with any Class I, II, III, IV, or V district. Any portion of such Class I district merging with a Class I district that is not part of a Class VI district shall retain its original affiliation. Any portion of such Class I district merging with a Class I district that is part of a Class VI district

shall become part of such Class VI district.

(3) After July 1, 1993, if an affiliated Class II, III, IV, or V district dissolves, unless otherwise stated in the affiliation petition, any portions of a Class I district that are affiliated with such district may affiliate with another Class II, III, IV, or V district, merge with any Class I, II, III, IV, or V district, or become part of a Class VI district.

Sec. 27. That section 79-426.02, Revised Statutes Supplement, 1991, be amended to read as follows:

79-426.02. Reorganization of school districts may be had and 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 any an established district of a part of the territory of one or more districts; (5) the affiliation of a Class I district or portion thereof with one or more Class II, III, IV, or V districts; (6) the changing of boundaries of a Class VI district; and (7) the dissolution or disorganization of any an established district for any of the reasons specified by law.

Sec. 28. That section 79-426.19, Revised Statutes Supplement, 1991, be amended to read as follows:

79-426.19. Within thirty days after the classification by the county superintendent of schools of the reorganized school districts, the county reorganization committee shall appoint from among the qualified electors of each new school district created the number of members necessary to constitute a school board or board of education of the class in which the new school district has been classified. A reorganized school district shall be formed, and organized, and shall have a governing board not later than April 1 following the last legal action, as prescribed in section 79-426.18, 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 32-1058. If the new school district involves territory lying in two or more counties, the school board or board of education shall be appointed by the joint action of

the county reorganization committees involved. In appointing the first board of a Class II school district, the members shall be appointed so that the terms of three members shall expire on the first Tuesday in June of the first even-numbered year and the terms of the three remaining members shall expire on the first Tuesday in June of the second even-numbered year following their appointment. At the statewide primary election in the first even-numbered year after the reorganization, there shall be elected in each Class II school district three board members to terms of four years, and thereafter all candidates shall be elected to terms of four years. Each member's term shall begin on the first Tuesday in June following his or her election.

In appointing the first board of a Class III school district with a six-member board serving terms of four years, the terms of three 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 three remaining members shall expire on the first Thursday after the first Tuesday in January after the second even-numbered year following their appointment.

In appointing the first board of a Class III school district with a nine-member board serving terms of four years, the terms of four 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 five 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 III school boards shall be elected to terms of four years.

The school board or board of education so appointed shall proceed at once to organize in the manner prescribed by law.

Sec. 29. That section 79-426.28, Revised Statutes Supplement, 1991, be amended to read as follows:

79-426.28. (1) By July 1, 1993, all taxable property and all elementary and high school students shall be in school systems which offer education in grades kindergarten through twelve. For purposes of meeting such requirement, a Class I district or portion thereof which is part of a Class VI district and a Class I district or portion thereof affiliated with one or more Class II, III, IV, or V districts shall be considered as ~~including~~ to include all taxable property

and all elementary and high school students within a school district which offers education in grades kindergarten through twelve.

(2) Effective July 1, 1993, with the full implementation of section 79-438.12, the Legislature will have attained its school reorganization goals for Class I districts as described in section 79-426.27.

Sec. 30. That section 79-436, Revised Statutes Supplement, 1991, be amended to read as follows:

79-436. Upon the receipt of the proper certificate, the county board of equalization shall levy on the actual value of all the taxable property in the county a sufficient tax to pay the nonresident high school tuition as certified by the county superintendent, except that the board shall exclude from the levy the actual value of all of the taxable property of any district in which is maintained an approved four-year high school and one-half of the actual value of all the taxable property of any district in which is maintained an approved two-year high school. If a county board of equalization fails to make such levy, the county superintendent of each county shall make a suitable levy within five days after the county board has adjourned and shall certify the same to the county assessor who shall enter such the levy upon the tax rolls.

Sec. 31. That section 79-437.03, Revised Statutes Supplement, 1991, be amended to read as follows:

79-437.03. The county superintendent and the county treasurer in each county maintaining a nonresident high school tuition fund created pursuant to section 79-437, which is repealed effective July 1, 1993, shall maintain an account to receive delinquent tax collections for the nonresident high school tuition levy, proceeds from the Tax Equity and Educational Opportunities Support Act and the Special Education Act, and any other funds legally due the nonresident high school tuition fund and to distribute the balance in such account periodically to school districts in the following order of priority:

(1) Class II, III, IV, V, and VI districts which have not received full payment of nonresident high school tuition charges certified pursuant to sections 79-4,102 to 79-4,104 until each district has received full payment; and

(2) Class I districts which affiliate pursuant to section 79-402.13 or become part of a Class VI

district and any Class II, III, IV, or V district with which a Class I district merges or forms a new Class II, III, IV, or V district.

The distribution shall be made to such districts in payments as nearly as practicable in the proportion that the actual valuation of taxable property of each such Class I district bears to the total valuation of all Class I districts comprising the nonresident high school tuition fund.

Sec. 32. That section 79-438.08, Revised Statutes Supplement, 1991, be amended to read as follows:

79-438.08. Whenever the affiliation of a Class I district or portion thereof becomes final, the provisions of sections 79-494 to 79-4,105 for nonresident high school tuition education shall not apply to such district for the ensuing school year. The levy described in section 79-438.12 shall become effective for the school year following such affiliation, and the levy required pursuant to sections 79-436 and 79-4,102 to 79-4,104 shall not be applied to property included in such district.

Sec. 33. That section 79-438.12, Revised Statutes Supplement, 1991, be amended to read as follows:

79-438.12. (1) Whenever the affiliation of a Class I district or portion thereof becomes final, the general fund property tax requirement of the high school district and each Class I district or portion thereof in an affiliated school system shall be certified to the county superintendent and county clerk for computation of an affiliated school system tax levy. The proceeds of such tax levy, upon collection by the county, shall be distributed to the districts in the affiliated school system in amounts which are in proportion to the amounts of the general fund property tax requirements certified by such districts to the county superintendent and county clerk. Such tax levy shall be computed as follows:

(a) If one or more Class I districts affiliate with only one high school district, the sum of the general fund property tax requirements of the high school district and all such Class I districts shall be divided by the sum of the assessed valuation, in hundreds, of all such districts; or

(b) If a Class I district or portion thereof affiliates with more than one high school district, such Class I district's general fund property tax requirement shall be apportioned to respective portions of such

Class I district for purposes of this computation based on each portion's assessed taxable valuation in relation to the total assessed valuation of all affiliated portions of the Class I district certified by the county clerk pursuant to section 79-433, and the affiliated school system tax levy shall be computed as though it were a single district as prescribed in subdivision (a) of this subsection.

(2) When a Class I district or portion thereof affiliates in part with one or more districts and in part becomes a part of one or more Class VI districts, the tax levy assessed on taxable property within the Class I district to fund the portion of the budget of the Class I district which is to come from the general fund property tax requirement shall be made as follows:

(a) The proportionate share of the Class I district budget allocable to any affiliated system shall be assessed on all property within such affiliated system as described in this section; and

(b) The proportionate share of the Class I general fund property tax requirement not allocable to any affiliated system shall be divided by the assessed valuation, in hundreds, of the property of the Class I district which is not affiliated. The resulting tax levy shall be assessed upon all taxable property in the portion of the Class I district which is not affiliated.

Sec. 34. That section 79-445, Revised Statutes Supplement, 1991, be amended to read as follows:

79-445. The A school board or board of education may admit nonresident pupils to the district school, may determine the rate of tuition of the pupils, and shall collect such tuition in advance. When the pupil as a ward of the state or as a ward of any court (1) has been placed in a public school district other than the district in which he or she resided at the time he or she became a ward or (2) 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 pupil's resident school district, the cost of his or her education and the required transportation costs associated with the child's education shall be paid by the state to the receiving school district or approved institution or paid to the county nonresident high school tuition fund under rules and regulations prescribed by the Department of Social Services. 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 as established under section 43-2,110, the cost of his or her education shall be paid by the state, regardless of such individual's district of residency, to the agency or institution which: (1) is selected by the county board with jurisdiction over such detention home; (2) has agreed or contracted with such county board to provide educational services; and (3) has been approved by the State Department of Education pursuant to rules and regulations prescribed by the State Board of Education. No tuition shall be charged for children who may be by law allowed to attend the school without charge. The public school district in which the parent or guardian of any nonresident pupil maintains his or her legal residence shall not be liable for the payment of tuition fees and the children of school age of such parent or guardian shall be entitled to free common school privileges the same as any child who is a bona fide resident of such school district whenever the parent or guardian of such nonresident pupil, having entered the public service of the State of Nebraska, has removed from the school district in which he or she maintains legal residence into another school district for temporary purposes incidental to serving the state, without the intention of making the school district to which the parent or guardian has removed his or her legal residence. No tuition shall be charged for a child whose parents are divorced if such child attends school in a district in which either parent resides. The burden of proof as to legal residence shall rest with the person claiming legal residence in any district. The school district may allow a pupil whose residency in the district ceases during a school year to continue attending school for the remainder of that school year without payment of tuition.

The school board or board of education may admit nonresident pupils to the district school without requiring the payment of tuition if such pupils are in the actual physical custody of a resident of the school district and are not residents of an adjoining school district and the school board or board of education determines that the pupils would otherwise be denied guaranteed free common school privileges.

Sec. 35. That section 79-446.01, Revised Statutes Supplement, 1991, be amended to read as follows:

79-446.01. Any A school district in this state in which one or more of the children of parents residing on tax-exempt, state-owned airfields attend

school shall be entitled to charge as tuition for each of the pupils, for the time the pupil is enrolled, an amount equal to that district's per pupil cost for the preceding year as reported in the district's approved annual financial report. The tuition so charged shall be paid by the Department of Aeronautics out of an appropriation therefor from the Department of Aeronautics Cash Fund from funds derived from the renting and leasing of airfield lands and property.

Sec. 36. That section 79-446.02, Revised Statutes Supplement, 1991, be amended to read as follows:

79-446.02. Any A school district in this state in which one or more of the children of parents residing on tax-exempt airfields owned by a city attend school shall be entitled to charge as tuition for each of the pupils, for the time the pupil is enrolled, an amount equal to that district's per pupil cost for the preceding year as reported in the district's approved annual financial report. The tuition so charged shall be paid by the city which owns such the tax-exempt airfield.

Sec. 37. That section 79-447, Revised Statutes Supplement, 1991, be amended to read as follows:

79-447. Any A school district in this state which admits one or more of the children of nonmilitary federal employees residing in national parks or national monuments within the state referred to in section 79-446 to school shall be entitled to charge as tuition for each of the pupils, for the time the pupil is enrolled, an amount equal to that district's per pupil cost for the preceding year as reported in the district's approved annual financial report if such the child is enrolled in any school district in, near, or adjacent to the place where such the nonmilitary federal employees reside as provided in section 79-446. The tuition so charged may be paid by the State of Nebraska out of an appropriation therefor from the General Fund, except that state appropriations shall not be made for more than an amount equal to the tuition for ten pupils each year. If the amount appropriated is insufficient for the total tuition for all pupils, a pro rata share of the amount appropriated shall be paid for each pupil.

Sec. 38. That section 79-448, Revised Statutes Supplement, 1991, be amended to read as follows:

79-448. The treasurer of the school board or board of education of any school district where in which

any children mentioned in section 79-446 have been enrolled during any year shall, on or before July 1 and on or before January 1 in each year, file a duly verified claim with the Commissioner of Education for the tuition of such pupils. Such claim shall show (1) the name, age, and date of enrollment of each such pupil, (2) the name of the school or schools attended, designating the grade level of each such pupil, (3) the total number of actual weeks in attendance, and (4) the total amount due based on the amount of tuition set forth in section 79-447. The commissioner shall examine each claim and, if satisfied as to its correctness, shall certify the same to the Director of Administrative Services who shall draw his or her warrant therefor upon the General Fund. The State Treasurer shall pay such warrant when presented out of the money specifically appropriated for that purpose.

Sec. 39. That section 79-449.01, Revised Statutes Supplement, 1991, be amended to read as follows:

79-449.01. The chief executive officer of any a public or a nonpublic school system serving any of grades seven through twelve shall annually report to the Commissioner of Education in such detail and on such date as required by the commissioner the number of students who have dropped out of school or were for any reason suspended or excluded from school during the year.

Sec. 40. That section 79-451, Revised Statutes Supplement, 1991, be amended to read as follows:

79-451. The secretary shall:

(1) On or before July 20 in all classes of school districts, deliver to the county superintendent, to be filed in his or her office, a report under oath showing the number of children from birth through twenty years of age belonging to the school district according to the census taken as provided in section 79-458. Such The report shall identify the number of boys and the number of girls in each of the respective age categories. Each Class I school district which is part of a Class VI school district offering instruction (a) in grades kindergarten through six shall report children from birth through eleven years of age and (b) in grades kindergarten through eight shall report children from birth through thirteen years of age. Each Class VI school district offering instruction (i) in grades seven through twelve shall report children who are twelve through twenty years of age and (ii) in grades nine

through twelve children who are fourteen through twenty years of age. Each Class I district which has affiliated in whole or in part shall report children from birth through thirteen years of age. Each Class I district which is not in whole or in part a part of a Class VI district and which has not affiliated in whole or in part shall report children from birth through twenty years of age. Each Class II, III, IV, V, or VI district shall report children who are fourteen through twenty years of age residing in Class I districts or portions thereof which have affiliated with such district. Any The school board or board of education of any district neglecting to take and make return of 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 July 15 in all school districts, deliver to the county superintendent, to be filed in his or her office, a report under oath described as an end-of-the-school-year annual statistical summary showing (a) the number of children attending school during the year under five years of age and also the number twenty-one years of age and older, (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 the wages paid to each, and (d) such other information as the Commissioner of Education directs;

(3) On or before October 1 in Class I school districts, submit to the county superintendent, to be filed in his or her office, and on or before November 1 in Class II, III, IV, V, and VI school districts, submit to the county superintendent and to the Commissioner of Education, to be filed in their offices, a report under oath described as the annual financial report showing (a) the amount of money received from all sources during the year and the amount of money expended by the school district during the year, (b) the rate of tax levied for all school purposes, (c) the amount of bonded indebtedness, (d) such other information as shall be necessary to fulfill the requirements of sections 79-4,102, 79-3304, and 79-3803 to 79-3821, and (e) such other information as the Commissioner of Education directs; and

(4) On or before October 15 of each year, deliver to the county superintendent and to the State Department of Education the fall school district membership report, which report shall include the number of children from birth through twenty years of age

enrolled in the district on the last Friday in September of a given school year. The report shall enumerate (a) resident students by grade level and nonresident students by grade level and classification, including, but not limited to, nonresident high school tuition students, option students, wards of the court, or contract students, (b) school district levies for the current fiscal year, and (c) total assessed valuation for the current fiscal year. When any school district fails to submit its fall school district membership report by November 1, the commissioner shall, after notice to the district and an opportunity to be heard, direct any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act and all other funds distributed by the department to be withheld until such time as the report is received by the department. In addition, the commissioner shall notify the county superintendent to direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county superintendent of receipt of such report. The county treasurer shall withhold such money.

Sec. 41. That section 79-458, Revised Statutes Supplement, 1991, be amended to read as follows:

79-458. The secretary 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 the oath of the person taking such census or by an affidavit appended to or endorsed thereon 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 returned to the county superintendent.

The board of education of any Class I, II, III, IV, or VI school district may, at its option, establish a permanent and continuing census or enumeration of school children. In such the school district the list in writing of the names of the children and taxpayers shall not be required to be reported to the county superintendent, 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.

Sec. 42. That section 79-494, Revised Statutes Supplement, 1991, be amended to read as follows:

79-494. Subject to the conditions provided prescribed in sections 79-495 to 79-4,106.05, four years of nonresident high school tuition education is secured to all children of the State of Nebraska whose parents or guardians reside in a public school district which maintains less than a four-year high school course of study.

Sec. 43. That section 79-497, Revised Statutes Supplement, 1991, be amended to read as follows:

79-497. To be entitled under section 79-494 to nonresident high school tuition education in the ninth grade of any public school district maintaining such grade, a pupil shall have a statement signed by the county superintendent indicating that he or she the pupil is eligible and is unable to secure ninth grade work in the public school district of his or her residence. The county superintendent in considering the eligibility of a pupil for nonresident high school tuition education for the ninth grade shall take into account the following factors: Achievement, as evidenced by grades earned in the statewide examinations and other tests and by teachers' marks; age; and physical, mental, and social maturity. Every pupil who has removed with his or her parents or guardian from a school district maintaining a public high school to a rural school district after the pupil has completed the eighth grade but before completing the ninth grade or who, while residing in a rural school district, completes the work of the first eight grades in a district maintaining a high school, to be entitled to nonresident high school tuition education in the ninth grade of any public school district maintaining such grade, shall have a statement signed by the county superintendent and the superintendent of the high school district that the pupil has satisfactorily completed the course of study for the eighth grade of the high school district and is unable to secure ninth grade work in the public school district of his or her residence. A pupil graduating from the eighth grade of a public, private, or parochial school within a district maintaining a public high school shall not be required to take the eighth grade examination when the superintendent of such public high

school certifies, after visitation to such public, private, or parochial school, that such pupil has attained satisfactory achievement.

Sec. 44. That section 79-498, Revised Statutes Supplement, 1991, be amended to read as follows:

79-498. To be entitled under section 79-494 to nonresident high school tuition education in the tenth, eleventh, or twelfth grade of any public school district maintaining such grade, a pupil shall have a certificate signed by the county superintendent of the proper county that the pupil has completed the course of study for the preceding grade and is unable to secure instruction in the next advanced grade in the public school district of ~~his or her~~ the pupil's residence, except that when a school district is annexed to or merged with another district, the board of education of the annexing district may pay the tuition in the amount provided for by subsection (3) of section 79-486 of pupils who at the time of such annexation are attending high school in a district other than such annexing district for such time as may be necessary to complete the prescribed high school course for graduation in such other district.

Sec. 45. That section 79-4,102, Revised Statutes Supplement, 1991, be amended to read as follows:

79-4,102. (1) The county superintendent of each county in which, as of June 15 of each year, there are Class I districts or any portions thereof which are not part of a Class VI district and which have not affiliated shall, within thirty days after the annual meeting, certify to the county board of supervisors or commissioners the number of qualified pupils whose parents or guardians have applied to the county superintendent for nonresident high school tuition privileges or special education requirements and a list of school districts and servicing agencies for handicapped pupils which have been approved by the State Board of Education as schools or service agencies qualified to grant nonresident high school tuition education or special education programs to nonresident pupils under sections 79-494 to 79-4,105 for nonhandicapped pupils and under sections 79-3315 and 79-3336 for handicapped high-school-age pupils.

(2) The nonresident high school tuition charge for the ensuing fiscal year shall be determined annually by the State Department of Education on a uniform taxation basis for the support of the high school

program of the receiving district. Based on data provided to the department pursuant to the requirements of sections 79-451 and 79-3824, data identifying the residence of registered nonresident high school tuition students provided by the county superintendents, and ~~such~~ any other data necessary to complete the calculations required by this section, the nonresident high school tuition charge shall be determined as follows:

(a) The total current expense of the receiving district as shown under the secondary column on the most recent annual financial report on file with the department, for operations supporting the program in grades nine through twelve only, and when necessary, adjustments shall be made to reflect ~~such~~ the expenses for grades nine through twelve based on the weighted values per grade level, shall be determined. The weighted values per grade level shall be as follows:

(i) The rate per kindergarten pupil shall be five-tenths times the rate established for a pupil in grades one through six, including full-day kindergarten as defined in section 79-3803;

(ii) The rate per pupil in grades seven and eight shall be one and two-tenths times the rate established for a pupil in grades one through six, including full-day kindergarten as defined in section 79-3803;

(iii) The rate per pupil in grades nine through twelve shall be one and four-tenths times the rate established for a pupil in grades one through six, including full-day kindergarten as defined in section 79-3803; and

(iv) The rate per pupil in grades one through six, including full-day kindergarten as defined in section 79-3803, shall be one;

(b) A combined valuation tax base shall be established, from data on file with the county assessors, the State Department of Education, and the Department of Revenue, based on the sum of the total current valuation as of June 15 of the receiving district and a proportionate share of the current valuation as of June 15 of all existing Class I school districts or portions thereof not a part of any Class VI school district and which have not affiliated in each county where nonresident high school tuition students reside who have registered to attend the receiving district for the immediately preceding five-year period. The receiving district's proportionate share of such Class I school district valuation shall be determined by

multiplying the total current valuation of the existing Class I school districts or portions thereof not a part of any Class VI school district and which have not affiliated in each county by a ratio equal to the total number of nonresident high school tuition students from each such county who have registered to attend the receiving district for the immediately preceding five-year period compared to the total number of nonresident high school tuition students who have registered in each such county for the immediately preceding five-year period;

(c) The receiving district's proportionate share of Class I valuation, determined in subdivision (b) of this subsection, shall be divided by the combined valuation tax base, determined in subdivision (b) of this subsection, to derive a percentage. Such percentage shall be multiplied by the total current expense figure of the receiving district, determined in subdivision (a) of this subsection, to arrive at a figure representing the nonresident high school tuition students' unadjusted share of operational expense. To such share shall be added a facility rental charge equal to five percent of the insurable or present value of the school plant and equipment used in support of the program operated in grades nine through twelve multiplied by the percent equal to the number of nonresident high school tuition students from existing Class I school districts or portions thereof not a part of any Class VI school district and which have not affiliated who have registered to attend the receiving district for the immediately preceding five-year period for which enrollment data is available divided by the total enrollment of the receiving district in grades nine through twelve for such five-year period;

(d) The total current charge for nonresident high school tuition, determined in subdivision (c) of this subsection, shall be adjusted to reflect increasing or decreasing costs. The total current charge for nonresident high school tuition shall be multiplied by the annual cost-of-education index to be established by the State Department of Education. Such index shall be based on the average of the annual increases and decreases in the total disbursements in support of the operation of the public schools during the immediately preceding five-year period for which such information is available. The cost-of-education index shall be computed annually pursuant to guidelines established in the rules and regulations adopted and promulgated by the State Board of Education;

(e) There shall be added to the adjusted nonresident high school tuition charge, determined in subdivision (d) of this subsection, an additional service charge for handicapped pupils as provided by the rules and regulations adopted and promulgated by the State Board of Education pursuant to section 79-3348; and

(f) On June 15 of each year, the department shall certify the total nonresident high school tuition charge to the receiving district. The secretary of the school board of the receiving district shall certify the nonresident high school tuition charge for each school year to the county superintendent for transmittal to the county treasurer and each receiving district on or before June 30 of each year.

(3) Any taxpayer may appeal from the action of the county board of equalization concerning nonresident high school tuition in the manner provided in sections 77-1606 to 77-1610. The county treasurer, the county superintendent, and each school district receiving funds from the nonresident high school tuition affected by the appeal shall be necessary parties. If the taxpayer alleges that the levy for nonresident high school tuition is for an unlawful or unnecessary purpose or is in excess of the requirements of the school district fixing nonresident high school tuition, such appeal shall not in any manner suspend the collection of any tax nor the duties of the officers relating to such tax collection while such appeal is pending. Notwithstanding section 77-1606, such appeal shall not suspend or stay in any manner the distribution of nonresident high school tuition funds.

(4) A taxpayer initiating an appeal may, as a part of such appeal and without instituting a separate action, apply to the court for injunctive relief pursuant to sections 25-1062 to 25-1080 to stay or suspend the distribution of nonresident high school tuition funds while the appeal is pending. If an appeal is brought under this subsection and the court orders the taxpayer to give security, such security shall be an amount sufficient to secure the party enjoined and any other necessary party the damages he, she, or it may sustain if the court decides that the injunction was wrongfully granted.

Sec. 46. That section 79-4,103, Revised Statutes Supplement, 1991, be amended to read as follows:

79-4,103. The county superintendent shall certify the nonresident high school tuition charges

determined pursuant to section 79-4,102 to the county treasurer who shall upon the order of the county superintendent, on or before March 1, June 1, September 1, and December 1 following, pay to the school district treasurers and to the treasurers of boards of education an amount sufficient to pay the nonresident high school tuition charges at a rate fixed by law. If the nonresident high school tuition fund provided for is not sufficient to pay the full amount of such tuition, the fund shall be distributed pro rata among the districts entitled to such the funds.

Sec. 47. That section 79-4,104, Revised Statutes Supplement, 1991, be amended to read as follows:

79-4,104. ~~In all cases when~~ If there is not sufficient money to pay the whole nonresident high school tuition charge due any district or districts for the first semester or first half year, the balance due shall be included with the payment for the second semester or second half year. If there is any such deficiency, it shall be provided for in making the levy for the succeeding year. If a balance remains in the nonresident high school tuition fund after all claims have been paid, it shall not revert to the county general fund but shall remain in the nonresident high school tuition fund and be deducted from the amount levied for the succeeding year or be distributed pursuant to section 79-437.03.

Sec. 48. That section 79-4,105.01, Revised Statutes Supplement, 1991, be amended to read as follows:

79-4,105.01. There shall be created for each affiliated high school district and each district which accepts at least ten nonresident high school students pursuant to sections 79-494 to 79-4,105 an advisory committee, which advisory committee shall be composed of three school board members selected by all the school board members of the Class I school districts with which such Class II, III, IV, or V district is affiliated or which send nonresident high school students to such Class II, III, IV, V, or VI district. The county superintendent shall call a meeting of all the school board members of such Class I school districts, not a part of a Class VI school district, for the purpose of establishing such advisory committees. Representatives shall serve three-year terms, except that of the members initially selected or selected at the end of terms being served on August 25, 1989, one shall serve a one-year term and one shall serve a two-year term.

The advisory committee shall provide advice and communication to the school board of such affiliated high school district or accepting districts regarding the high school program, facilities, and budget and the needs and concerns of students, parents, and taxpayers in the Class I school district or districts. Each advisory committee shall meet at least biannually with the school board of the accepting school district and participate in good faith in those coordination requirements specified in section 79-4,158.01.

Sec. 49. That section 79-4,158.01, Revised Statutes Supplement, 1991, be amended to read as follows:

79-4,158.01. Each Every affiliated high school district, each every school district which accepts nonresident high school students pursuant to sections 79-494 to 79-4,105, and each every Class VI school district shall undertake efforts to provide for coordination of the curriculum between the elementary school program of instruction of participating Class I school districts and the high school program of instruction of such affiliated high school district, accepting school district, or Class VI school district. Notwithstanding reasonable and good faith efforts to provide for coordination of curriculum, each school board of a Class I school district shall retain the final authority to determine matters of curriculum. Any additional costs incurred in providing the coordinated services required by this section shall be included as a cost of the high school program in the case of school districts accepting nonresident high school students pursuant to sections 79-494 to 79-4,105 and a cost of the Class VI school district in the case of a Class VI school district. In the case of an affiliated school system, any additional costs incurred for curriculum coordination pursuant to this section shall be funded through the budget of the high school district. Any additional services required by any affiliated Class I district shall be funded through such Class I district's budget which may include contractual or purchased services.

Sec. 50. That section 79-4,159, Revised Statutes Supplement, 1991, be amended to read as follows:

79-4,159. When any a school board or board of education of any class of school district fails to approve a school district budget prior to the beginning of the ensuing fiscal year, a budget document shall be prepared and filed in accordance with the Nebraska

Budget Act by the county superintendent of the county where the administrative headquarters of the school district is located for the school district's general fund and for each other fund for which the district budgeted in the immediately preceding fiscal year using the total budget of expenditures and cash reserves from the immediately preceding fiscal year, except that in no case shall ~~such~~ the budget of expenditures or cash reserves exceed any limits prescribed in the Tax Equity and Educational Opportunities Support Act or other state laws. The county superintendent shall also estimate the revenue from sources other than property tax for each fund in accordance with subdivision (1)(c) of section 13-504 and section 79-3813.

Sec. 51. That section 79-4,222, Revised Statutes Supplement, 1991, be amended to read as follows:

79-4,222. (1) For the ~~purpose~~ purposes of eligibility for or entitlement to any educational service or program, any student residing in an affiliated Class I district who is enrolled in the high school program of an affiliated school system shall be considered to be a resident of the Class II, III, IV, or V district which is part of such affiliated school system. Such student shall be treated for purposes of any educational service, including special education services, extracurricular programs, and other school-sponsored activities, as if he or she were a resident student of the high school district.

(2) All children residing in a Class I district or portion thereof which is affiliated who are fourteen through twenty years of age shall be counted on the school census of the affiliated high school district pursuant to section 79-451.

Sec. 52. That section 79-4,224, Revised Statutes Supplement, 1991, be amended to read as follows:

79-4,224. (1) If the provisions of sections 10-716.01, 79-101.01, 79-101.02, 79-402.13 to 79-402.20, 79-426.28, 79-437.03, 79-438.08, ~~to~~ 79-438.12, and 79-4,222, as amended by Laws 1991, LB 511, and this legislative bill, sections 79-402.11, 79-426.01, 79-426.08, ~~79-426-01~~ 79-426.17, 79-490, and 79-4,140.16, as amended by Laws 1990, LB 259, and sections 79-402, 79-402.03, 79-402.04, 79-426.02, 79-4,105.01, and 79-4,158.01, as amended by Laws 1990, LB 259, and Laws 1991, LB 511, and this legislative bill, are found to be unconstitutional pursuant to the final determination of the Nebraska Supreme Court on or after July 1, 1993, the

provisions of sections 79-436, 79-437, 79-495 to 79-499, and 79-4,101 to 79-4,105 shall be revived as such sections ~~exist~~ existed on July 10, 1990.

(2) If the provisions of sections 10-716.01, 79-101.01, 79-101.02, 79-402.13 to 79-402.20, 79-426.28, 79-437.03, 79-438.08, ~~to~~ 79-438.12, and 79-4,222, as amended by Laws 1991, LB 511, and this legislative bill, sections ~~79-402.11~~, 79-426.01, 79-426.08, ~~79-426.17~~, 79-490, and 79-4,140.16, as amended by Laws ~~1991~~ 1990, LB ~~511~~ 259, and sections 79-402, 79-402.03, 79-402.04, 79-426.02, 79-4,105.01, and 79-4,158.01, as amended by Laws 1990, LB 259, and Laws 1991, LB 511, and this legislative bill, are found to be unconstitutional pursuant to the final determination of the Nebraska Supreme Court before July 1, 1993, then Laws 1988, LB 940, section 19, is repealed.

Sec. 53. That section 79-516.08, Revised Statutes Supplement, 1991, be amended to read as follows:

79-516.08. (1) Commencing with the 1992-93 school year, if the fall school district membership or the average daily membership of an existing Class II or III school district shows less than thirty-five students in grades nine through twelve, ~~such~~ the district shall submit a plan for developing cooperative programs with other high schools, including the sharing of curriculum and certificated and noncertificated staff, to the county committee for the reorganization of school districts of the county in which the school district is located.

The cooperative program plan shall be submitted by the school district by September 1 of the year following such fall school district membership or average daily membership report. A cooperative program plan shall not be required if there is no high school within fifteen miles from such district on a reasonably improved highway. The county committee shall review the plan and provide advice and communication to such school district and other high schools.

(2)(a) If for two consecutive years the fall school district membership, or for two consecutive years the average daily membership, of an existing Class II or III school district is less than twenty-five pupils in grades nine through twelve or if for one year an existing Class II or III school district contracts with a neighboring school district or districts to provide educational services for all of its pupils in grades nine through twelve, such school district shall, except as provided in subsection (3) of this section, become a Class I school district through the order of the county

superintendent if the high school is within fifteen miles on a reasonably improved highway of another high school.

(b) During the second consecutive year an existing Class II or III school district has less than twenty-five pupils in grades nine through twelve pursuant to subdivision (a) of this subsection and if the high school is within fifteen miles on a reasonably improved highway of another high school, 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 with a board consisting of the county superintendent, county clerk, and county treasurer, asking to have any tract or tracts of land described in the petition set off from a Class II or III school district as described in such subdivision in which it is situated and attached to an accredited district in the same county or an adjoining county thereto. The petition shall state the reasons for the proposed change and shall show with reference to the land of each petitioner: (i) That (A) 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 (B) such tract of land includes all such contiguous land owned or controlled by each petitioner; (ii) that the land described in the petition is located in a Class II or III district as described in subdivision (a) of this subsection and is to be attached to an accredited school district in the same county or an adjoining county thereto; and (iii) 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. The petition shall be verified by the oath of each petitioner. The board shall, after a public hearing on the petition and a determination that all requirements of this subdivision have been complied with, 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. Notice of the filing of the petition and of the hearing for such petition before the board 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. Petitions requesting transfers of property across county lines shall be addressed jointly to the county superintendents of the counties concerned, and the petitions shall be acted upon by the county superintendents, county clerks, and county treasurers of the counties involved as one board, with the county superintendent of the county from which the land is sought to be transferred acting as chairperson of the board. When the tract of land attached is not contiguous to the district receiving such land, the transportation allowance provisions of section 79-490 shall not extend beyond the boundary line of the receiving district that existed prior to the attachment of such tract of land.

Appeals may be taken from the action of such board, or when such board fails to agree, to the district court of the county in which the land is located within twenty days after entry of such action on the records of the board by the county clerk of the county in which the land is located or within twenty days after March 15 if the board fails to act upon such 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.

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

(3) Any Class II or III school district maintaining a four-year high school which has a fall school district membership or an average daily membership of less than twenty-five students in grades nine through twelve may contract with another school district to provide educational services for its pupils in grades nine through twelve. Such contract may continue for a period, not to exceed one year. At the end of such one-year period, the school district may resume educational services for grades nine through twelve if the average daily membership in grades nine through twelve for such school district has reached at least fifty students. If the school district has not achieved such fall school district membership or average daily membership, it shall become a Class I school district as prescribed in subsection (2) of this section.

(4) For purposes of this section, when

calculating fall school district membership or average daily membership, a resident school district as defined in section 79-3402 shall not count students attending an option district as defined in section 79-3402 and a Class II or III school district shall not count foreign exchange students and nonresident students who are wards of the court or state.

Sec. 54. That section 79-547.04, Revised Statutes Supplement, 1991, be amended to read as follows:

79-547.04. The board of education of any a Class II, III, IV, V, or VI school district may establish a special fund for the 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. Such fund shall be established from the proceeds of an annual levy, to be determined by the board of education, of not to exceed fourteen cents on each one hundred dollars upon the actual 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.

Sec. 55. That section 79-606, Revised Statutes Supplement, 1991, be amended to read as follows:

79-606. ~~The qualified~~ Qualified voters of a Class I school district may at any annual or special meeting (1) direct the purchasing or leasing of any appropriate site and the building, hiring, or purchasing of a schoolhouse, a teacherage for the purpose of providing housing facilities for the school employees of the district, or other school buildings, (2) determine the amount necessary to be expended for such purposes the succeeding year, and (3) vote a tax on the property of the district for the payment of the same.

Sec. 56. That section 79-607, Revised Statutes Supplement, 1991, be amended to read as follows:

79-607. A tax to establish a special fund for the purpose of erection or repair of a schoolhouse and equipment or the building, and purchasing existing buildings for use as school buildings, including the sites upon which such buildings are located, hiring, or

purchasing of a teacherage for the purpose of providing housing facilities for the school employees of the district in any Class I school district may be levied when authorized by fifty-five percent of the qualified electors voting on the proposition. The notice of the proposal to establish ~~such~~ the 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. ~~Such~~ The tax shall be subject to the restrictions of section 79-422 as to maximum amount and term. If fifty-five percent of the qualified electors voting at any such election vote in favor thereof, 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 and collected as other taxes.

Sec. 57. That section 79-608, Revised Statutes Supplement, 1991, be amended to read as follows:

79-608. The provisions of sections 23-504 to 23-507, ~~relating which relate~~ to special funds for erection of courthouses, shall apply so far as practicable to the procedure under sections 79-607 to 79-610, the school board or district trustees having power to contract for the erection or repair of the building under the same restrictions as the county board in case of the erection of a courthouse, and any residue of such tax going into the school district general fund.

Sec. 58. That section 79-609, Revised Statutes Supplement, 1991, be amended to read as follows:

79-609. The amount of special tax levied under sections 79-607 to 79-610 shall not exceed seventeen and five-tenths cents on each one hundred dollars upon the actual value of all the taxable property in the school district above the amount allowed by law for general school purposes, and the total amount voted for the period of years shall not exceed five percent of the actual valuation of the school district.

Sec. 59. That section 79-610, Revised Statutes Supplement, 1991, be amended to read as follows:

79-610. If fifty-five percent of the qualified electors voting on the proposition vote in favor ~~thereof~~ of the proposition, the school board may at once proceed to carry out the purpose of the levy, and to do so, the board may issue warrants, as needed,

not to exceed eighty-five percent of the amounts raised by the levy, against the fund voted. The interest on any such warrants shall be paid annually.

Sec. 60. That section 79-701, Revised Statutes Supplement, 1991, be amended to read as follows:

79-701. (1) A Class II school district shall be created whenever a Class I school district determines by a majority vote of the electors to establish a high school.

(2) The members of the school board serving when it is decided to establish a high school shall continue in office until the first Tuesday in June following the next statewide primary election at which election a six-member board shall be elected. The three members receiving the highest number of votes shall be elected for terms of four years, and the three members receiving the next highest number of votes shall be elected for terms of two years.

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

If the new school board is to consist of three members, such members shall be elected at the time the electors vote to change from a Class II school district to a Class I school district or at any annual or special meeting held not less than thirty days prior to the effective date of the change from a Class II school district to a Class I school district. At the annual or special meeting, a treasurer shall be elected for a term of one year, a secretary for a term of two years, and a president for a term of three years, and regularly thereafter their successors shall be elected for terms of three years each. All officers so elected shall hold their offices until successors are elected and qualified. After such change becomes effective, the school district and its officers shall have the powers

and be governed by the provisions of law applicable to Class I school districts.

If the new school board is to consist of six members, such members shall be elected after school district electors have voted to change from a Class II school district to a Class I school district. The procedure for electing board members shall be as prescribed in subsection (3) of section 79-601, except that such election may be held at any annual meeting or at a special meeting called for the purpose of electing school district officers.

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

Sec. 61. That section 79-1103, Revised Statutes Supplement, 1991, be amended to read as follows:

79-1103. (1) The governing body of each Class VI school district shall be a board consisting of a president, a vice president, a secretary, a treasurer, and two other voting members, to be chosen in the manner prescribed in this section, and also may include one or more nonvoting student members selected pursuant to section 79-547.02. ~~Such~~ The board shall have the same powers and duties as and shall be governed by the provisions of law governing the school boards in Class I and II school districts for purposes authorized by law, except that ~~such~~ the board may undertake building projects and expend money from a special fund established pursuant to section 79-547.04 in the same manner and subject to the same restrictions as any Class II, III, IV, or V school district, and for such purposes section 79-606 shall not apply. The fiscal year of Class VI school districts shall be the same as that of Class III school districts. The annual meetings as provided in section 79-501 shall not apply to any Class VI school district.

(2) Elections of nonstudent members of boards of education of Class VI school districts shall be held in accordance with section 79-550.01. The term of office for such nonstudent members shall begin on the second Monday in June following their election and shall continue for four years and until the members' successors are duly elected and qualified.

(3) Persons may be nominated for the board of

education of Class VI school districts either by petition or by direct filing, except that a student member may be selected pursuant to section 79-547.02. If nominated by petition, the procedure shall be governed by section 32-504, and if nominated by direct filing, the procedure shall be governed by Chapter 32. The deadline for direct filing and for filing petitions shall be sixty days prior to the primary election. There shall be no filing fee.

(4) Upon completion of the canvass of the votes, the county clerk or election commissioner shall declare the proper candidates elected and shall issue election certificates to the elected candidates.

(5) The board shall elect from its members a president, a vice president, a secretary, and a treasurer at the first regular board meeting after the newly elected board members have been sworn in and prior to conducting any other business.

(6) Any vacancy on the board, other than the position of student member, shall be filled pursuant to section 79-464.

Sec. 62. That section 79-1247.05, Revised Statutes Supplement, 1991, be amended to read as follows:

79-1247.05. (1) The board shall establish, adopt, and promulgate appropriate rules, regulations, and procedures governing the issuance, renewal, conversion, revival, cancellation, suspension, and revocation of certificates and permits to teach, counsel, supervise, and administer in all elementary and secondary schools in this state based upon (a) earned college credit in humanities, social and natural sciences, mathematics, and practical arts, (b) earned college credit, or its equivalent in professional education, for particular teaching, counseling, supervisory, or administrative assignments, (c) scholarship attained in earning such credit, (d) training in human relations, which requirement shall apply to the issuance of first certificates or permits issued after January 1, 1990, and to the issuance of renewal certificates or permits issued after January 1, 1993, (e) successful teaching, and (f) moral, mental, and physical fitness for teaching, all in accordance with sound educational practices.

(2)(a) The board shall establish or designate basic skills competency examinations for prospective teachers. Such ~~The~~ examinations shall measure competency in the written use of the English language, competency to read, comprehend, and interpret

professional writing and other written materials, and competency to work with fundamental mathematical computations.

(b) No candidate applying for an entry-level teacher or administrator certificate after July 31, 1989, shall receive ~~such~~ a certificate unless such candidate has received a satisfactory score on the basic skills competency examinations established or designated by the board, except that the board may issue a temporary certificate to any teacher or administrator who is first employed in a Nebraska school after April 1 of any year and who meets all other requirements but has not had an opportunity to take the examinations. The temporary certificate shall be valid only for the ensuing school year and may not be renewed. Each Nebraska teacher education institution approved by the board shall administer the basic skills competency examinations as a condition for entry into such institution's teacher or administrator program. The State Department of Education shall administer, at a time and place designated by the commissioner, the examinations for teachers and administrators being recommended for certification from outside of Nebraska and for prospective teachers and administrators who have not matriculated in or completed a teacher training program.

(c) 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 pursuant to subdivision (1)(d) of this section or the special education competencies requirement specified in section 79-1247.16. No applicant for certification shall receive any manner of temporary certification which exceeds two years in duration. The board may also issue such temporary certification, valid for not more than two years, pursuant to the Interstate Agreement on Qualification of Educational Personnel found in section 79-2701.

(d) The board may issue substitute teaching certificates or permits in the absence of training in human relations required pursuant to subdivision (1)(d) of this section, the basic skills competency examinations required pursuant to subdivision (2)(b) of this section, or the special education competencies requirement specified in section 79-1247.16.

(3) Members of any advisory committee established by the board to assist the board in teacher certification matters shall be reimbursed for their

actual and necessary 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 General 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.

Sec. 63. That section 79-1247.07, Revised Statutes Supplement, 1991, be amended to read as follows:

79-1247.07. (1) ~~All~~ The certificates and permits provided for in section 79-1247.05 shall be issued by the commissioner upon application therefor on forms to be prescribed and provided by him or her and upon the payment by the applicant of a nonrefundable fee of forty dollars, except as provided in subsection (4) of this section, for each application for a certificate or permit. The board may waive the fee for the holder of any certificate issued in another state which is determined to have validity in this state based on provisions in agreements between the states which have been approved by the board.

(2) Each such certificate or permit issued by the commissioner shall indicate the grade levels, subjects, subject fields, or areas of specialization for which the holder was specifically prepared by a standard institution of higher education or authorized by the board to teach, counsel, supervise, and administer. During the term of any certificate or permit issued by the commissioner, additional endorsements may be made thereon for a nonrefundable fee of thirty dollars. Such additional endorsements shall indicate only the grade levels, subjects, subject fields, or areas of specialization for which the holder was specifically prepared by a standard institution of higher education or authorized by the board pursuant to section 79-1247.05.

(3) Any fee received by the State Department of Education under this section shall be deposited in the state treasury to the credit of the Teachers' Certification Fund which is hereby created for use by the department in paying the costs of certifying educators pursuant to sections 79-1247.05 to 79-1247.13, except that ten dollars of the forty-dollar fee specified in subsection (1) of this section shall be

deposited to the credit of the Professional Practices Commission Fund which is hereby created for use by the department to pay for the provisions of sections 79-1280 to 79-1286. No money in the Teachers' Certification Fund shall be used for any purpose other than the direct certification of educators and shall not be used for accreditation visits. Any money in the Teachers' Certification Fund or the Professional Practices Commission Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

(4) Since nonpublic schools and their teachers do not receive the benefits of sections 79-1280 to 79-1286, a special certificate or permit restricted to use in nonpublic schools only shall be issued upon payment of a nonrefundable fee of thirty dollars. Such certificate or permit shall have plainly stamped or otherwise written on its face the words nonpublic school only. Upon surrender of such a certificate or permit and the payment of the fee provided in subsection (1) of this section by the holder thereof, a regular certificate or permit shall be issued and such fee shall be deposited as directed in subsection (3) of this section.

(5) Upon payment by the applicant of a nonrefundable fee of thirty dollars, a duplicate certificate or permit to which the holder is entitled may be issued by the commissioner.

Sec. 64. That section 79-1254.02, Revised Statutes Supplement, 1991, be amended to read as follows:

79-1254.02. The contracts of the teaching staff and school nurses employed by the governing board of ~~any~~ a community college, ~~any~~ an educational program administered by the State Department of Education, the Department of Public Institutions, or ~~any~~ a political subdivision of the state, except a school district or an educational service unit, those 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 ~~such~~ the governing board. Except as provided in section 79-1254.09, each such contract shall be deemed renewed and in force and effect until a majority of the board votes, sixty days before the close of the contract period, to amend or terminate the contract for just cause. The secretary of the 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 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 of receipt of such notice a written request with the board for a hearing before the board.

Upon receipt of such request, the board shall order the hearing to be held within ten days 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 board shall render the decision to amend or terminate a contract based on the evidence produced at the hearing.

Sec. 65. That section 79-12,115.01, Revised Statutes Supplement, 1991, be amended to read as follows:

79-12,115.01. In error proceedings to reverse, vacate, or modify a final order by a school board made pursuant to sections 79-12,107 to 79-12,121, the school district, school board, or both may be named as defendants in error in such the proceedings. Such The proceedings shall not be defeated nor shall the court 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 currently pending in the district court or the Supreme Court on June 11, 1991, and to error proceedings commenced after such date.

Sec. 66. That section 79-1303, Revised Statutes Supplement, 1991, be amended to read as follows:

79-1303. (1) In making the apportionment under section 79-1302, the Commissioner of Education shall distribute from the school fund for school purposes, to any and all school districts and to the nonresident high school tuition fund of counties in which there are situated school lands which have not been sold and transferred by deed or saline lands owned by the state, an amount in lieu of tax money that would be raised if such lands were taxable, to be ascertained in accordance with subsection (2) of this section, except that for Class I districts or portions thereof which are affiliated and in which there are situated

school or saline lands, 38.6207 percent of the in lieu of land tax money calculated pursuant to subsection (2) of this section, based on the affiliated school system tax levy computed pursuant to section 79-438.12, shall be distributed to the affiliated high school district and the remainder shall be distributed to the Class I district.

(2) The county superintendents shall certify to the Commissioner of Education the tax levy for school purposes of each school district and the nonresident high school tuition levy of the county wherein such in which the school land or saline land is located and the last appraised value of such school land, which value shall be one hundred forty-three percent of the appraised value for the purpose of applying the applicable tax levy for each district and for the nonresident high school tuition fund in determining the distribution to the districts and to the nonresident high school tuition fund of the counties of such amounts. The board of any school district, wherein there is located any leased or undeeded school land or saline land subject to the provisions of this section, may appeal to the Board of Educational Lands and Funds for a reappraisal of such school land if such school board 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 is correct, make the proper reappraisal.

Sec. 67. That section 79-1304, Revised Statutes Supplement, 1991, be amended to read as follows:

79-1304. (1) The several county superintendents shall add (a) all money received by the county treasurer 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 such 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 secretaries of the various districts.

Sec. 68. That section 79-1369, Revised Statutes Supplement, 1991, be amended to read as follows:

79-1369. The State Department of Education shall withhold any payments provided under Chapter 79 to school districts which, after final determination, received funds in excess of the appropriate allocation for the previous year. Payments which are withheld shall be no greater than the amount of the overpayment. The department shall maintain an accurate account and a record of the reasons for such the overpayments and the manner in which the adjustments were made.

Sec. 69. That section 79-1914, Revised Statutes Supplement, 1991, be amended to read as follows:

79-1914. The State Department of Education shall adopt and promulgate rules and regulations necessary to ~~implement~~ carry out section 79-1913.

Sec. 70. That section 79-2203, Revised Statutes Supplement, 1991, as amended by section 200, Legislative Bill 1063, Ninety-second Legislature, Second Session, 1992, be amended to read as follows:

79-2203. (1) Each educational service unit shall be governed by a board to be known as the Board of Educational Service Unit No. The educational service unit board shall ~~consist~~ be composed of one member from each county and four members at large, all of whom shall reside within the geographical boundaries of the educational service unit, but no more than two of the members at large shall be appointed or elected from the same county unless any one county within the educational service unit has a population in excess of one hundred fifty thousand inhabitants or the educational service unit consists of only one county. Successors to the members initially appointed shall be elected for terms of four years. County candidates shall file their written applications with the county clerk or election commissioner no later than August 1 prior to the general election. Candidates for the position of members at large shall file their written applications with the Secretary of State no later than August 1 prior to the general election. No filing fee shall be required. Vacancies in office shall occur as set forth in section 32-1037. Whenever any vacancy occurs on the board, the remaining members of such board shall appoint an individual residing within the geographical boundaries of the educational service unit to fill such vacancy for the balance of the unexpired term. Members of the board shall receive no

compensation for their services but shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties under sections 79-2201 to 79-2224 as provided in sections 81-1174 to 81-1177.

(2) Except as provided in subsection (3) of this section, any local joint school district located in two or more counties shall be considered a part of the educational service unit in which the greater number of school-age children of such joint school district reside. All qualified electors of any such joint school district shall be eligible to hold office as the county representative of the county in which the greater number of school-age children reside. Any qualified elector of any joint school district shall be eligible to hold office as the at-large representative if such elector resides within the geographical boundary of the school district comprising the educational service unit.

(3) Any Class I district which is part of a Class VI district shall be considered a part of the educational service unit of which the Class VI district is a member. If the Class VI district has removed itself from an educational service unit in accordance with section 79-2202.02, each Class I district which is part of such Class VI district may continue its existing membership in an educational service unit or may change its status relative to membership in an educational service unit in accordance with section 79-2202.06. The patrons of a Class I district maintaining membership in an educational service unit pursuant to this subsection shall have the same rights and privileges as other patrons of the educational service unit, and the taxable valuation of the taxable property within the geographic boundaries of such Class I district shall be subject to the educational service unit's tax levy established pursuant to section 79-2210.

(4) The administrator of each educational service unit, prior to March 1 of each year in which a state primary election is to be held, shall certify to the county clerk of each county located within the unit the corporate name of each school district, as described in section 79-401, 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 county clerk the unit of which the school district is considered to be a part.

Sec. 71. That section 79-2212, Revised Statutes Supplement, 1991, be amended to read as follows:

79-2212. Sections 79-2201 to 79-2212 shall be

supplemental to any other laws and shall not affect the reorganization of school districts as provided in the Reorganization of School Districts Act.

Sec. 72. That section 79-3304, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3304. Adjusted average per pupil cost of the preceding year shall mean 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.

Sec. 73. That section 79-3336, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3336. The county superintendent of schools shall use nonresident high school tuition money to provide educational opportunities in accordance with the Special Education Act for handicapped high-school-age ~~pupils~~ students residing in districts not maintaining a high school. The State Department of Education shall reimburse each county in an amount equal to ninety percent of the approved special education cost of educating each handicapped high-school-age ~~pupil~~ student for all special education programs and services other than Level I services described in section 79-3332. For Level I services, the county shall be reimbursed in accordance with such section. Payments to the county shall be made the following year by the department in seven as nearly as possible equal monthly payments between the fifth and twentieth day of each month beginning in December.

Sec. 74. That section 79-3415, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3415. (1) For school years 1990-91 and 1991-92, the State Department of Education shall pay the option school district the statewide average per pupil cost for the preceding year, as determined by the department, or the option school district's per pupil cost for the preceding year as reported in the district's approved annual financial report, whichever is less, in two approximately equal payments on or before January 30 and on or before June 30, for expenses incurred during the current school year for each option

student, including option students who are handicapped.

(2) Beginning with the 1992-93 school year, the Tax Equity and Educational Opportunities Support Act shall apply to the enrollment option program as provided in this subsection. For purposes of the act, (a) option students shall not be counted as formula students by the resident school district and shall be counted by the option school district and (b) the option school district shall include the funds received pursuant to this section in the calculation of other actual receipts as required by section 79-3811.

(3) If an option student relocates in a different school district during the school year, the department shall prorate the amount remitted to the option school district pursuant to this section according to the proportionate amount of time the such student was enrolled in the option school district.

(4) If sufficient funds are not appropriated to fully fund this section, the department shall make a proportionate reduction in each payment made pursuant to this section.

Sec. 75. That section 79-3703, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3703. (1) The State Board of Education shall establish the Early Childhood Education Pilot Project Program. The State Department of Education, with the assistance of an Early Childhood Education Pilot Project Steering Committee appointed by the State Board of Education, shall establish guidelines and criteria for pilot projects. Based on such criteria and guidelines, the board shall request proposals from local school districts and cooperatives of school districts and select four proposals for early childhood education pilot projects. Each project ~~se~~ selected shall be provided funds of up to one hundred thousand dollars per year.

(2) Each pilot project proposal which is accepted by the board shall include (a) a planning period of at least six months, (b) an agreement to participate in an evaluation of the project to be specified by the department, (c) evidence that the project will be coordinated or contracted with existing programs, including Head Start and services for handicapped children below five years of age as provided in the Special Education Act, and (d) a plan to use a combination of funding sources, including sliding fee scales, to maximize the participation of diverse groups.

(3) Each project shall also demonstrate the

following elements of quality early childhood education programs, including: (a) A strong family education component recognizing the central role of parents in their children's development; (b) well-trained staff and optimum staff and child ratios; (c) developmentally appropriate curriculum, practices, and assessment; (d) sensitivity to the economic and logistical needs and circumstances of families in the provision of services; (e) integration of children of diverse social and economic characteristics; (f) a sound evaluation component, including at least one objective measure of child performance and progress; and (g) continuity with programs in kindergarten and elementary grades.

(4) One pilot project shall be located in each of the three congressional districts and one shall be located at large according to the decision of the department.

(5) The pilot projects shall continue for three calendar years, and by July 1, 1994, the department shall conduct an overall evaluation of the success or failure of the pilot projects and components thereof. A report evaluating the pilot projects shall be made to the State Board of Education and the Legislature by November 30, 1994.

Sec. 76. That section 79-3803, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3803. For purposes of the Tax Equity and Educational Opportunities Support Act:

(1) Adjusted valuation shall mean the assessed valuation of taxable property of each district in the state adjusted pursuant to the adjustment factors described in section 79-3809, except that for purposes of determining the local effort rate yield pursuant to section 79-3808, adjusted valuation shall 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;

(2) Allocated income tax funds shall mean the amount of assistance paid to a district pursuant to section 79-3804;

(3) Average daily membership shall mean the average daily membership for grades kindergarten through twelve as provided in each district's annual financial report and annual statistical summary and, for the calculation of state aid to be paid in school year 1993-94 and each school year thereafter, shall include the proportionate share of students enrolled in a public school instructional program on less than a full-time

basis;

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

(5) Board shall mean the school board or board of education of each school district;

(6) Categorical federal funds shall mean federal funds limited to a specific purpose by federal law, including, but not limited to, Chapter 1 funds, Chapter 2 funds, Title VI funds, federal vocational education funds, federal school lunch funds, Indian education funds, and Head Start funds;

(7) Current school year shall mean the current school fiscal year;

(8) Department shall mean the State Department of Education;

(9) District shall mean any Class I, II, III, IV, V, or VI district and, for purposes of sections 79-3801 to 79-3813, the nonresident high school tuition fund of each county;

(10) Ensuing school year shall mean the school year following the current school year;

(11) Equalization aid shall mean the amount of assistance paid to a district pursuant to sections 79-3806 to 79-3813;

(12) Fiscal year shall mean the state fiscal year which is the period from July 1 to the following June 30;

(13) Formula students shall mean the sum of average daily membership and tuitioned resident students;

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

(15) General fund budget of expenditures shall mean the total budgeted expenditures for general fund purposes as certified in the budget statement adopted pursuant to the Nebraska Budget Act, except that for purposes of the limitation imposed in section 79-3814, the general fund budget of expenditures shall not include any special grant funds, exclusive of local matching funds, received by a district subject to the approval of the department;

(16) General fund expenditures shall mean all expenditures from the general fund;

(17) General fund operating expenditures shall mean the total general fund expenditures minus categorical federal funds, tuition paid, transportation

fees paid to other districts, adult education, summer school, school lunch pass-through, community services, redemption of the principal portion of general fund debt service, and transfers from other funds into the general fund;

(18) Income tax liability shall mean 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;

(19) Income tax receipts shall mean the amount of income tax collected pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(20) Most recently available complete data year shall mean the most recent single school fiscal year for which the annual financial report, fall school district membership report, annual statistical summary, Nebraska income tax liability by school district, and adjusted valuation data are available;

(21) State aid shall mean the amount of assistance paid to a district pursuant to sections 79-3804 and 79-3806 to 79-3813;

(22) State board shall mean the State Board of Education;

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

(24) Tuitioned resident students shall mean resident students in grades kindergarten through twelve of the district whose tuition is paid by the district to some other district or education agency.

Sec. 77. That section 79-3804, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3804. (1) Beginning in fiscal year 1990-91, twenty percent of the projected state income tax receipts shall be dedicated to the use and support of the public school system to provide support for the distribution of state aid to districts as determined in subsections (2) through (4) of this section and sections 79-3806 to 79-3813.

(2) Not later than November 15 of each year, the Tax Commissioner shall certify to the department for the second preceding tax year (a) twenty percent of the income tax liability of resident individuals for each Class I, II, III, IV, or V district in the state in which ten or more resident individual income tax returns were filed and (b) twenty percent of the income tax

liability of resident individuals of all Class I, II, III, IV, and V districts in which less than ten resident individual income tax returns were filed, together with a list of such districts and funds.

(3) ~~Utilizing~~ Using the data certified by the Tax Commissioner pursuant to subsection (2) of this section, the department shall calculate each district's allocated income tax funds as follows: (a) Each district identified in subdivision (2)(b) of this section shall be preliminarily allocated a share of the sum total income tax liability certified pursuant to such subdivision based on its pro rata share of the total adjusted valuation of all such districts; and (b) each district identified in subdivision (2)(a) of this section shall receive the following allocations of certified income tax liability:

(i) For each Class II, III, IV, or V district, the allocated income tax funds shall be the certified income tax liability;

(ii) For each Class I district which is not part of a Class VI district, 61.3793 percent of the certified income tax liability shall be allocated to such Class I district, with the remainder allocated to the nonresident high school tuition fund to which any portion of the Class I district belongs and to any high school district or districts with which any portion of the Class I district has affiliated. When the Class I district is a joint district or has partially affiliated with one or more high school districts, such remainder shall be allocated to the nonresident high school tuition fund of each county in which the Class I district has property and to the affiliated high school district or districts based on each county's and each affiliated high school district's pro rata share of the Class I district's total adjusted valuation;

(iii) For each Class I district which is part of a Class VI district which offers instruction in grades seven through twelve, 44.8276 percent of the certified income tax liability shall be allocated to such Class I district and the remainder shall be allocated to the Class VI district; and

(iv) For each Class I district which is part of a Class VI district which offers instruction in grades nine through twelve, 61.3793 percent of the certified income tax liability shall be allocated to such Class I district and the remainder shall be allocated to the Class VI district.

(4) The remainder of the amount dedicated pursuant to subsection (1) of this section, which

includes income tax receipts from all other entities and individual income tax liability which cannot be reasonably identified as payments from residents of specific districts, shall be determined by the Tax Commissioner for the second preceding calendar year. The Legislature shall annually appropriate an amount equal to the total income tax liability allocable to districts based on the certification of the Tax Commissioner provided pursuant to subsection (2) of this section. Based on income tax projections provided by the Nebraska Economic Forecasting Advisory Board, the Legislative Fiscal Analyst, and the Department of Revenue, the Legislature shall annually appropriate an amount approximating the remainder of such dedicated income tax receipts for the ensuing school year. The State Treasurer shall transfer such appropriated amounts to the School District Income Tax Fund for distribution pursuant to this section and to the Tax Equity and Educational Opportunities Fund for distribution to districts pursuant to the distribution prescribed in sections 79-3806 to 79-3813.

Sec. 78. That section 79-3806, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3806. (1) Except as provided in subsections (2) through (6) of this section, each district shall receive equalization aid in the amount that the total formula need of each such district, as determined pursuant to subsection (4) of this section and sections 79-3805 and 79-3807, exceeds its total formula resources as determined pursuant to subsection (4) of this section and sections 79-3808 to 79-3811.

(2) A district shall not receive state aid for each of the school years 1990-91, 1991-92, and 1992-93 which is less than one hundred percent of the amount of aid received pursuant to the School Foundation and Equalization Act for school year 1989-90.

(3) No district shall receive equalization aid in an amount such that total state aid received would result in such district having a general fund tax levy of less than sixty percent of the local effort rate as computed pursuant to section 79-3808. The calculation shall be based on valuation, state aid, and levy data from the current school year and, for the calculation of state aid in school year 1992-93 and each school year thereafter, shall also take into consideration the amounts of nonresident high school tuition certified by the department pursuant to section 79-4,102 for the current school year and for the school year in which

such state aid is to be paid.

(4) For school districts in affiliated school systems as defined in section 79-101.01, equalization aid to be paid in school year 1992-93 and each school year thereafter shall be computed as follows:

(a) For affiliated Class I districts, the total formula need and total formula resources shall be allocated to each affiliated school system based upon the proportion of such Class I district's adjusted valuation contained in each system with which it is affiliated;

(b) For the high school district and each Class I district or portion thereof allocated pursuant to subdivision (a) of this subsection, the total formula resources shall be subtracted from the total formula need, except that the difference shall never be less than zero;

(c) Each district's total formula need, total formula resources, and difference calculated pursuant to subdivision (b) of this subsection shall be added to arrive at system formula need, system formula resources, and system total difference;

(d) System equalization aid shall equal the amount by which the system formula need exceeds system formula resources; and

(e) Each district's share of the system equalization aid shall be calculated by dividing the district's difference calculated pursuant to subdivision (b) of this subsection by the system total difference and multiplying the result by the system equalization aid.

(5) Beginning with school year 1994-95, a district which does not generate equalization aid pursuant to subsection (1) of this section and in which option students as defined in section 79-3402 were actually enrolled in the most recently available complete data year shall receive additional state aid for each such student in an amount equal to the statewide average tiered cost per student or the option district's tiered cost per student, whichever is less.

(6) For school years 1992-93 and 1993-94, a district which does not generate equalization aid pursuant to subsection (1) of this section and in which option students as defined in section 79-3402 were actually enrolled in the most recently available complete data year shall receive additional state aid computed by first multiplying the number of such option students, by grade group, by the district's tiered cost per student for each grade group and then summing the

results for all grade groups in the district. The district shall receive additional state aid equal to the amount by which this calculation exceeds the district's actual receipts pursuant to section 79-3415 in the most recently available complete data year.

Sec. 79. That section 79-3807, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3807. (1) Except as provided in subsection (2) of this section, ~~utilizing~~ using each district's tiered cost per student as determined in section 79-3805, total formula need for each district shall be computed by first multiplying the number of formula students in each grade grouping of kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve by each such district's corresponding tiered cost per student in each grade grouping. The sum of such products shall be the district's total formula need.

(2) For calculation of state aid to be paid in school year 1993-94 and each school year thereafter, total formula need for the nonresident high school tuition fund of each county shall equal the total nonresident high school tuition charge for the county for each such school year as certified by the department pursuant to section 79-4,102.

Sec. 80. That section 79-3808, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3808. (1) District formula resources shall include local effort rate yield which shall be computed as prescribed in this section.

(2) The local effort rate shall be determined by the department. The local effort rate shall be the rate which, when multiplied by the total adjusted valuation of all taxable property in districts receiving equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act, will produce the amount needed to support the total formula need of such districts when added to state aid appropriated by the Legislature for the ensuing school year and other actual receipts of districts described in section 79-3811. The local effort rate for Class I districts, Class VI districts, and county nonresident high school tuition funds shall be based on the following schedule.

District	Grades for which legally responsible	Percentage of local effort rate
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Class I	kindergarten through six	44.8276
Class I	kindergarten through eight	61.3793
Class VI	seven through twelve	55.1724
Class VI	nine through twelve	38.6207
County non-resident high school tuition funds	nine through twelve	38.6207

(3) For Class I, II, III, IV, V, and VI districts and, except as provided in subsection (5) of this section, for the nonresident high school tuition fund of each county, the local effort rate yield shall be determined by multiplying each district's total adjusted valuation from the most recently available complete data year by the local effort rate.

(4) For the calculation of state aid to be paid in school years 1992-93, 1993-94, and 1994-95, in addition to the local effort rate yield calculated pursuant to subsection (3) of this section, district formula resources for each Class II, III, IV, V, and VI district shall include 38.6207 percent of the local effort rate multiplied by the sum of: (a) The assessed valuation from the current school year of Class I districts or portions thereof that in the current school year are not part of a Class VI district and are not affiliated but will be affiliated or merged with ~~such~~ the Class II, III, IV, V, or VI district for the school year in which the calculated state aid is to be paid; and (b) the assessed valuation from the most recently available complete data year of Class I districts or portions thereof that in the most recently available complete data year were not part of a Class VI district and were not affiliated but were affiliated or merged with ~~such~~ the Class II, III, IV, V, or VI district for the current school year.

(5) For the calculation of state aid to be paid in school year 1993-94 and each school year thereafter, local effort rate yield for the nonresident high school tuition fund of each county shall be determined by multiplying 38.6207 percent of the local effort rate by the assessed valuation from Class I districts or portions thereof in such county which have not affiliated with any high school district and which are not part of a Class VI district for the school year in which the aid is to be paid.

Sec. 81. That section 79-3809, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3809. ~~Commencing~~ Beginning in 1994, on or

before March 1 of each year the Department of Revenue shall compute and certify to the State Department of Education the adjusted valuation, by county, of each district for the second preceding tax year by application of an adjustment factor for each class of property in each such district so that the valuation of property for each district, for purposes of determining state aid pursuant to the Tax Equity and Educational Opportunities Support Act, shall reflect as nearly as possible actual value as required by law and the Constitution of Nebraska. Establishment of the adjustment factors shall be based on the best available assessment practices.

Sec. 82. That section 79-3810, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3810. District formula resources shall include allocated income tax funds determined for each such district pursuant to the provisions of section 79-3804.

Sec. 83. That section 79-3811, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3811. District formula resources shall include other actual receipts as determined by the department for the most recently available complete data year, except that receipts from the Community Improvements Cash Fund and any receipts acquired pursuant to the Low-Level Radioactive Waste Disposal Act shall not be included. Other actual receipts shall include:

- (1) Public power district sales tax revenue;
- (2) Fines and license fees;
- (3) Nonresident high school tuition receipts, except that for the calculation of state aid to be paid in school years 1991-92, 1992-93, 1993-94, and 1994-95, other actual receipts shall include the district's total nonresident high school tuition charge for each such school year as certified by the department pursuant to section 79-4,102;
- (4) Tuition receipts from individuals, other districts, or any other source except those derived from adult education;
- (5) Transportation receipts;
- (6) Interest on investments;
- (7) Other miscellaneous local receipts, not including receipts from private foundations, individuals, associations, or charitable organizations;
- (8) Special education receipts;

(9) Receipts from the state for wards of the court and wards of the state;
 Fund; (10) All receipts from the Temporary School
 Fund;
 (11) Receipts from the Insurance Tax Fund;
 receipts; (12) Pro rata motor vehicle license fee
 funds; (13) Help Education Lead to Prosperity Act
 (14) Amounts provided by the state on behalf of the district as reimbursement for repayment of personal property taxes by centrally assessed pipeline companies pursuant to section 77-3617;
 (15) Other miscellaneous state receipts;
 (16) Impact aid entitlements for the school fiscal year which have actually been received by the district to the extent allowed by federal law;
 (17) All other noncategorical federal receipts; and
 (18) All receipts pursuant to Chapter 79, article 34.

Sec. 84. That section 79-3813, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3813. On or before July 1 of each year, the department shall determine the amounts to be distributed to each district pursuant to sections 79-3804 and 79-3806 to 79-3811 and shall certify ~~such~~ the amounts to the Director of Administrative Services, the Auditor of Public Accounts, and each district. Such amounts shall be distributed in ten as nearly as possible equal payments on the last business day of each month beginning in September of each year and ending in June of the following year pursuant to warrants drawn against the School District Income Tax Fund and the Tax Equity and Educational Opportunities Fund. Such certified state aid amounts shall be shown as budgeted non-property-tax receipts and deducted prior to calculating the property tax request in the district's general fund budget statement as provided to the Auditor of Public Accounts and the department pursuant to section 79-3815.

Sec. 85. That section 79-3815, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3815. (1) Beginning with the budget adopted for school year 1990-91, the department may require each district to submit to ~~it~~ 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 make necessary changes in the budget documents for districts to effectuate the budget limitations imposed pursuant to sections 79-3814 to 79-3821.

(2) If any 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 section 13-508 or fails to make any corrections of errors in the documents pursuant to section 13-504, 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 and all other funds distributed by the department be withheld until such time as the required budget documents or corrections of errors are received by the department. In addition, the commissioner shall notify the county superintendent to direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county superintendent of receipt of the required budget documents or corrections of errors.

Sec. 86. That section 79-3816, Revised Statutes Supplement, 1991, as amended by section 203, Legislative Bill 1063, Ninety-second Legislature, Second Session, 1992, be amended to read as follows:

79-3816. ~~Beginning with school fiscal year 1990-91 and each school fiscal year thereafter, the~~ The basic allowable growth rate for general fund expenditures other than expenditures for special education shall be four percent and the allowable growth range shall be from four percent to six and one-half percent. The budget authority for special education shall be the actual anticipated expenditures for special education subject to the approval of the state board. Such budget authority shall be used only for special education expenditures.

Sec. 87. That section 79-3817, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3817. On or before July 1 of each year,

the department shall determine and certify to each district an applicable allowable growth percentage carried out at least eight decimal places for each district as follows:

(1) For each district the department shall determine a target budget level by multiplying the average daily membership for the most recently available complete data year of each district in grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve by the tiered cost per student as determined in section 79-3805 for each grade grouping. The sum of such products shall be each district's target budget level;

(2) The department shall establish a target budget level range of general fund operating expenditure levels for each district which shall begin at twenty percent less than the target budget level and end at the target budget level. The beginning point of the range shall be assigned a number equal to the maximum allowable growth rate established in section 79-3816, and the end point of the range shall be assigned a number equal to the basic allowable growth rate as prescribed in section 79-3816 such that the lower end of the range shall be assigned the maximum allowable growth rate and the higher end of the range shall be assigned the basic allowable growth rate; and

(3) Each district's actual general fund operating expenditures shall be compared to its target budget level along the range described in subdivision (2) of this section to arrive at an applicable allowable growth rate as follows: If the district's actual general fund operating expenditures fall below the lower end of the range, the such applicable allowable growth rate shall be the maximum growth rate identified in section 79-3816. If the district's actual general fund operating expenditures are greater than the higher end of the range, the district's allowable growth rate shall be the basic growth rate identified in section 79-3816. If the district's actual general fund operating expenditures fall between the lower end and the higher end of the range, the department shall use a linear transition calculation between the end points of the range to arrive at the applicable allowable growth rate for the district.

Sec. 88. That section 79-3818, Revised Statutes Supplement, 1991, as amended by section 204, Legislative Bill 1063, Ninety-second Legislature, Second Session, 1992, be amended to read as follows:

79-3818. Beginning with the budget adopted

for the 1990-91 school fiscal year, no No district shall adopt a budget, which includes contingency funds, depreciation funds, 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 July 1 of each year, the department shall determine and certify each district's applicable allowable reserve percentage.

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

Sec. 89. That section 79-3819, Revised Statutes Supplement, 1991, as amended by section 205, Legislative Bill 1063, Ninety-second Legislature, Second Session, 1992, be amended to read as follows:

79-3819. A district may exceed its applicable allowable growth rate by a specific dollar amount in the situations described in this section.

(1) A district demonstrates to the satisfaction of the state board that a new program is required by state or federal law or an existing program mandated by state or federal law has been expanded as a result of changes in such state or federal law. For purposes of this subsection, a final order of a court from which no appeal is taken which requires reimbursement by a district of property taxes to a

taxpayer shall be considered a new program required by state or federal law but shall not be included as part of the general fund budget of expenditures for purposes of section 79-3814.

(2) The district projects an increase in formula students in the district over the current school year greater than twenty-five students or greater than those listed in the schedule provided in this subsection, whichever is less. Districts shall project increases in formula students on forms prescribed by the department. The state board shall approve, deny, or modify the projected increases.

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

The department shall compute the district's estimated allowable budget per pupil using the budgeted general fund expenditures found on the budget statement for the current school year divided by the number of formula students in the current school year and multiplied by the district's applicable allowable growth rate. The resulting allowable budget per pupil shall be multiplied by the projected formula students to arrive at the estimated budget needs for the ensuing year. The department shall allow the district to increase its general fund budget of expenditures for the ensuing school year by the amount necessary to fund the estimated budget needs of the district as computed pursuant to this subsection. On or before July 1 of each year, the department shall make needed revisions in the applicable allowable growth rate of districts which have been allowed additional growth pursuant to this subsection to reflect the actual formula students of such district and shall certify such revisions to each district.

(3) Construction, expansion, or alteration of district buildings will cause an increase in building operation and maintenance costs of at least five percent. The department shall document the projected increase in building operation and maintenance costs and may allow a district to exceed its applicable allowable growth percentage by the amount necessary to fund such increased costs. The department shall compute the actual increased costs for the school year and shall, if needed, modify the district's applicable allowable

growth rate for the ensuing school year.

Sec. 90. That section 79-3820, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3820. (1) A district may exceed by an additional one percent the applicable allowable growth percentage prescribed in section 79-3817 upon an affirmative vote of at least seventy-five percent of the board. ~~Such~~ The vote shall be taken at a public meeting of the board following a special public hearing called for the purpose of receiving testimony on such proposed increase. The board shall give at least seven calendar days' notice of such public hearing and shall publish such notice at least once in a newspaper of general circulation in the district.

(2) A district may exceed the applicable allowable growth percentage prescribed in section 79-3817 by an amount approved by a majority of registered voters voting on the issue at a special election called for such purpose upon the recommendation of the board or upon the receipt by the county clerk or election commissioner of a petition requesting an election signed by at least five percent of the registered voters of the district. The recommendation of the board or the petition of the voters shall include the amount and percentage by which the board would increase its general fund budget of expenditures for the ensuing school year over and above the current year's general fund budget of expenditures. The county clerk or election commissioner shall call for a special election on the issue within fifteen days of the receipt of such board recommendation or voter petition. The election shall be held pursuant to the provisions of Chapter 32 governing special elections, and all costs shall be paid by the district.

Sec. 91. That section 79-3822, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3822. The department shall annually, on or before December 1, provide data to the Governor to enable ~~him or her~~ the Governor to prepare the necessary legislation to:

(1) Appropriate an amount which will provide financial support from all state sources to districts equal to forty-five percent of the estimated general fund operating expenditures of districts for the ensuing school year;

(2) Appropriate an amount of income tax revenue received to insure that twenty percent of all

income tax receipts are dedicated to the support of districts throughout the state; and

(3) Establish and implement a basic allowable growth rate and an allowable growth range for district budgets for the ensuing school year.

The Governor shall submit such legislation, along with any modifications made by the Governor as part of his or her annual budget request, to the Legislature.

Sec. 92. That section 79-3823, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3823. There is hereby created the School Finance Review Committee, which committee shall be composed of representatives of the State Department of Education, the Department of Revenue, the Legislative Council, and each class of district, an expert in school finance, and a member of the general public. Except for the representative of the Legislative Council, who shall be selected by the Executive Board of the Legislative Council, and the representative of the State Department of Education, who shall be appointed by the State Board of Education, the committee members shall be appointed by the Governor. Committee members shall serve staggered three-year terms as the Governor shall designate, and committee members may be reappointed for one additional term. The committee shall monitor the operation of the school finance provisions of the Tax Equity and Educational Opportunities Support Act and suggest needed revisions in the act. In particular, the committee shall review the implementation and operation of the average daily membership tiers, budget growth limitations, the need for a continuing hold-harmless provision for state aid, and expenditures of districts pursuant to the act. The committee shall study and make specific recommendations for harmonizing the provisions of the act with the provisions of Laws 1990, LB 259, and the provisions of Chapter 79, article 34.

The committee shall annually, on or before March 1, make a report to the Governor, Legislature, and State Board of Education on the progress of the act in effectuating property tax relief, broadening the tax base for the support of the public school system, equalization of the tax burden for the support of the public school system, equalization of educational opportunities for students, and the effects of budget limitations on district spending patterns.

Sec. 93. That section 79-3824, Revised Statutes Supplement, 1991, be amended to read as

follows:

79-3824. (1) State aid payable pursuant to the Tax Equity and Educational Opportunities Support Act for each school year shall be based upon data found in applicable reports for the most recently available complete data year. The annual financial reports shall be submitted to the Commissioner of Education pursuant to subdivision (3) of section 79-451. If any a Class I district's annual financial report has not been received by the commissioner by the first day of October and if any a Class II, III, IV, V, or VI school district fails to submit its report to the commissioner by the first day of November, the commissioner, 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 and all other funds distributed by the department be withheld until such time as the report is received by the department. In addition, the commissioner shall notify the county superintendent to direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county superintendent of receipt of such report. The county treasurer shall withhold such money.

(2) A district which receives 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 Tax Equity and Educational Opportunities Support 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 fiscal year. The state board may grant the entire amount applied for or any portion of such amount if, after a hearing, 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 79-3813, 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 shall mean 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.

Sec. 94. That Laws 1988, LB 940, section 18, as amended by Laws 1990, LB 259, section 34, and by Laws 1991, LB 511, section 89, be amended to read as follows:

Sec. 18. Section 19 of this act as amended by section 90, Legislative Bill 511, Ninety-second Legislature, First Session, 1991, and section 95, Legislative Bill 245, Ninety-second Legislature, Second Session, 1992, shall become operative on July 1, 1993. The other sections of this act shall become operative on their effective date.

Sec. 95. That Laws 1988, LB 940, section 19, as amended by Laws 1991, LB 511, section 90, be amended to read as follows:

Sec. 19. That sections 79-437, 79-495, 79-496, 79-499, 79-4,101, and 79-4,105, Reissue Revised Statutes of Nebraska, 1943, sections 79-436, 79-497, and 79-498, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 25, 38, and 39, respectively, Legislative Bill 511, Ninety-second Legislature, First Session, 1991, and by sections 30, 43, and 44, respectively, Legislative Bill 245, Ninety-second Legislature, Second Session, 1992, and sections 79-4,102 to 79-4,104, Revised Statutes Supplement, 1990, as amended by sections 40 to 42, respectively, Legislative Bill 511, Ninety-second Legislature, First Session, 1991, and by sections 45 to 47, respectively, Legislative Bill 245, Ninety-second Legislature, Second Session, 1992, are repealed.

Sec. 96. Any acts and proceedings undertaken or funds appropriated in accordance with and pursuant to Laws 1991, LB 511, and prior to the effective date of this act are hereby deemed undertaken pursuant to this legislative bill, legalized, and validated if in compliance with Laws 1991, LB 511.

Sec. 97. That Laws 1991, LB 511, section 91, be amended to read as follows:

Sec. 91. There is hereby appropriated (1) \$200 from the General Fund for FY1991-92 and (2) \$200 from the General Fund for FY1992-93 to the State Department of Education, for Program 440, to aid in carrying out the provisions of Legislative Bill 511, Ninety-second Legislature, First Session, 1991, and Legislative Bill 245, Ninety-second Legislature, Second Session, 1992.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 98. That Laws 1991, LB 511, section 92,

be amended to read as follows:

Sec. 92. There is hereby appropriated (1) \$15,656 from the General Fund for FY1991-92 and (2) \$27,000 from the General Fund for FY1992-93 to the State Department of Education, for Program 25, to aid in carrying out the provisions of Legislative Bill 511, Ninety-second Legislature, First Session, 1991, and Legislative Bill 245, Ninety-second Legislature, Second Session, 1992.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 99. That Laws 1991, LB 511, section 93, be amended to read as follows:

Sec. 93. There is hereby appropriated (1) \$14,950 from the General Fund for FY1991-92 and (2) \$17,160 from the General Fund for FY1992-93 to the State Department of Education, for Program 25, as state aid pursuant to section 79-447, to aid in carrying out the provisions of Legislative Bill 511, Ninety-second Legislature, First Session, 1991, and Legislative Bill 245, Ninety-second Legislature, Second Session, 1992, which shall only be used for such purpose.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 100. That Laws 1991, LB 511, section 94, be amended to read as follows:

Sec. 94. There is hereby appropriated (1) \$247,000 from the General Fund for FY1991-92 and (2) \$255,000 from the General Fund for FY1992-93 to the Department of Social Services, for Program 347, to aid in carrying out the provisions of Legislative Bill 511, Ninety-second Legislature, First Session, 1991, and Legislative Bill 245, Ninety-second Legislature, Second Session, 1992.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 101. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 102. That original sections 10-716.01 and 23-3306, Reissue Revised Statutes of Nebraska, 1943, sections 43-2007, 77-3438.01, 79-101.01, 79-101.02, 79-201.09, 79-402, 79-402.03, 79-402.04, 79-402.13 to 79-402.20, 79-426.02, 79-426.19, 79-426.28, 79-436,

79-437.03, 79-438.08, 79-438.12, 79-445, 79-446.01 to 79-448, 79-449.01, 79-451, 79-458, 79-494, 79-497, 79-498, 79-4,102, 79-4,103, 79-4,104, 79-4,105.01, 79-4,158.01, 79-4,159, 79-4,222, 79-4,224, 79-516.08, 79-547.04, 79-606 to 79-610, 79-701, 79-1103, 79-1247.05, 79-1247.07, 79-1254.02, 79-12,115.01, 79-1303, 79-1304, 79-1369, 79-1914, 79-2212, 79-3304, 79-3336, 79-3415, 79-3703, 79-3803, 79-3804, 79-3806, 79-3807, 79-3808, 79-3809, 79-3810, 79-3811, 79-3813, 79-3815, 79-3817, 79-3820, 79-3822, 79-3823, and 79-3824, Revised Statutes Supplement, 1991, sections 77-3437, 77-3438, 79-2203, 79-3816, 79-3818, and 79-3819, Revised Statutes Supplement, 1991, as amended by sections 190, 191, 200, 203, 204, and 205, respectively, Legislative Bill 1063, Ninety-second Legislature, Second Session, 1992, Laws 1988, LB 940, section 19, as amended by Laws 1991, LB 511, section 90, Laws 1988, LB 940, section 18, as amended by Laws 1990, LB 259, section 34, and by Laws 1991, LB 511, section 89, and Laws 1991, LB 511, sections 91 to 94, and also sections 79-493, 79-4,160, 79-1247.15, 79-12,142 to 79-12,144, 79-12,146 to 79-12,152, and 79-1912, Reissue Revised Statutes of Nebraska, 1943, and sections 79-438.09 to 79-438.11, 79-4,223, and 79-12,145, Revised Statutes Supplement, 1990, are repealed.

Sec. 103. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.