

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1071

FINAL READING

Introduced by Adams, 24.

Read first time January 21, 2010

Committee: Education

A BILL

1 FOR AN ACT relating to government; to amend sections 79-201,
2 79-215, 79-2,136, 79-4,108, 79-1003.01, 79-1007.04,
3 79-1007.05, 79-1013, 79-1030, 79-1103, 79-1233,
4 79-1245, 79-1247, 79-1248, 79-1249, 85-1511, 86-501,
5 86-505, 86-506, 86-516, 86-520, and 86-5,100, Reissue
6 Revised Statutes of Nebraska, sections 13-509, 79-318,
7 79-8,137.01, 79-8,137.02, 79-8,137.03, 79-8,137.04,
8 79-1014, 79-1022, 79-1026.01, 79-1027, 79-1031.01,
9 79-10,110, and 79-1241.01, Revised Statutes Supplement,
10 2009, and sections 79-1003, 79-1007.23, and 79-1023,
11 Revised Statutes Supplement, 2009, as amended by sections
12 3, 9, and 11, respectively, Legislative Bill 5, One
13 Hundred First Legislature, First Special Session,

1 2009; to change and eliminate provisions relating to
2 certification of property valuations, attendance age,
3 admissions, evaluation policies and procedures, unified
4 school systems, open enrollment provisions for learning
5 communities, American Recovery and Reinvestment Act of
6 2009 bonds for school facilities, the Early Childhood
7 Education Grant Program, the Enhancing Excellence
8 in Teaching Program, the Tax Equity and Educational
9 Opportunities Support Act, the Educational Service Units
10 Act, and the Information Technology Infrastructure Act;
11 to provide for memoranda regarding sharing student data;
12 to define and redefine terms; to harmonize provisions;
13 to provide duties for the Revisor of Statutes; to
14 provide operative dates; to repeal the original sections;
15 to outright repeal sections 79-1241.02, 79-1243, and
16 79-1331, Reissue Revised Statutes of Nebraska; and to
17 declare an emergency.

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

1 Section 1. Section 13-509, Revised Statutes Supplement,
2 2009, is amended to read:

3 13-509 (1) On or before August 20 of each year, the
4 county assessor shall ~~(a)~~ certify to each governing body or board
5 empowered to levy or certify a tax levy the current taxable
6 value of the taxable real and personal property subject to the
7 applicable levy, and ~~(b)~~ certify to the State Department of
8 Education the current taxable value of the taxable real and
9 personal property subject to the applicable levy for all school
10 districts. Current taxable value for real property shall mean
11 the value established by the county assessor and equalized by
12 the county board of equalization and the Tax Equalization and
13 Review Commission. Current taxable value for tangible personal
14 property shall mean the net book value reported by the taxpayer and
15 certified by the county assessor.

16 (2) The valuation of any real and personal property
17 annexed by a political subdivision on or after August 1 shall
18 be considered in the taxable valuation of the annexing political
19 subdivision the following year.

20 Sec. 2. Section 79-201, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 79-201 (1) For purposes of this section, ~~(a)~~ Prior to
23 July 1, 2005, a child is of mandatory attendance age if the child
24 ~~(i)~~ has reached seven years of age, ~~(ii)~~ did not reach sixteen
25 years of age prior to July 16, 2004, and ~~(iii)~~ has not reached

1 ~~eighteen years of age, and (b) On and after July 1, 2005, a child~~
2 is of mandatory attendance age if the child ~~(i)~~ (a) will reach six
3 years of age prior to January 1 of the then-current school year,
4 ~~(ii) did not reach sixteen years of age prior to July 16, 2004, and~~
5 ~~(iii) and (b)~~ (b) has not reached eighteen years of age.

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

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

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

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

25 ~~(c) Has reached the age of eighteen years;~~

1 ~~(d)~~ (c) Has reached the age of sixteen years and
2 such child's parent or guardian has signed a notarized release
3 discontinuing the enrollment of the child on a form provided by the
4 school;

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

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

25 ~~(g)~~ (f) Will not reach six years of age prior to January

1 1 of the then-current school year and such child was enrolled in a
2 public school and has discontinued the enrollment according to the
3 policy of the school board adopted pursuant to subsection (4) of
4 this section.

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

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

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

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

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

21 (d) Records of all notices served and reports filed
22 pursuant to section 79-209 and the district's policy on habitual
23 truancy.

24 Sec. 3. Section 79-215, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 79-215 (1) Except as otherwise provided in this section,
2 a student is a resident of the school district where he or she
3 resides ~~or any school district where at least one of his or her~~
4 ~~parents reside~~ and shall be admitted to any such school district
5 upon request without charge.

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

9 ~~(2)~~ (3) A school board shall admit any homeless student
10 ~~that requests admission upon request~~ without charge.

11 ~~(3)~~ (4) A school board may allow a student whose
12 residency in the district ceases during a school year to continue
13 attending school in such district for the remainder of that school
14 year.

15 ~~(4)~~ (5) A school board may admit nonresident students to
16 the school district pursuant to a contract with the district where
17 the student is a resident and shall collect tuition pursuant to the
18 contract.

19 ~~(5)~~ (6) A school board may admit nonresident students to
20 the school district pursuant to the enrollment option program as
21 authorized by sections 79-232 to 79-246, and such admission shall
22 be without charge.

23 (7) A school board of any school district that is a
24 member of a learning community shall admit nonresident students to
25 the school district pursuant to the open enrollment provisions of

1 a diversity plan in a learning community as authorized by section
2 79-2110, and such admission shall be without charge.

3 ~~(6)~~ (8) A school board may admit a student who is a
4 resident of another state to the school district and collect
5 tuition in advance at a rate determined by the school board.

6 ~~(7)~~ (9) When a student as a ward of the state or as
7 a ward of any court (a) has been placed in a school district
8 other than the district in which he or she resided at the time he
9 or she became a ward and such ward does not reside in a foster
10 family home licensed or approved by the Department of Health and
11 Human Services or a foster home maintained or used pursuant to
12 section 83-108.04 or (b) has been placed in any institution which
13 maintains a special education program which has been approved by
14 the State Department of Education and such institution is not owned
15 or operated by the district in which he or she resided at the
16 time he or she became a ward, the cost of his or her education
17 and the required transportation costs associated with the student's
18 education shall be paid by the state, but not in advance, to
19 the receiving school district or approved institution under rules
20 and regulations prescribed by the Department of Health and Human
21 Services and the student shall remain a resident of the district
22 in which he or she resided at the time he or she became a ward.
23 Any student who is a ward of the state or a ward of any court
24 who resides in a foster family home licensed or approved by the
25 Department of Health and Human Services or a foster home maintained

1 or used pursuant to section 83-108.04 shall be deemed a resident
2 of the district in which he or she resided at the time he or
3 she became a foster child, unless it is determined under section
4 43-1311 or 43-1312 that he or she will not attend such district in
5 which case he or she shall be deemed a resident of the district in
6 which the foster family home or foster home is located.

7 ~~(8)~~ (10) When a student is not a ward of the state
8 or a ward of any court and is residing in a residential setting
9 located in Nebraska for reasons other than to receive an education
10 and the residential setting is operated by a service provider
11 which is certified or licensed by the Department of Health and
12 Human Services or is enrolled in the medical assistance program
13 established pursuant to the Medical Assistance Act and Title XIX
14 or XXI of the federal Social Security Act, as amended, the student
15 shall remain a resident of the district in which he or she
16 resided immediately prior to residing in such residential setting.
17 Upon request by a parent or legal guardian, the resident school
18 district shall contract with the district in which such residential
19 setting is located for the provision of all educational services,
20 including all special education services. If the parent or legal
21 guardian has requested that the resident school district contract
22 with the district in which such residential setting is located,
23 the district in which such residential setting is located shall
24 contract with the resident district and provide all educational
25 services, including all special education services, to the student.

1 If the two districts cannot agree on the amount of the contract,
2 the State Department of Education shall determine the amount
3 to be paid by the resident district to the district in which
4 such residential setting is located based on the needs of the
5 student, approved special education rates, the department's general
6 experience with special education budgets, and the cost per student
7 in the district in which such residential setting is located. Once
8 the contract has been entered into, all legal responsibility for
9 special education and related services shall be transferred to the
10 school district in which the residential setting is located. The
11 resident district for a student who is not a ward of the state or a
12 ward of any court does not change when the student moves from one
13 residential setting to another.

14 ~~(9)~~ (11) In the case of any individual eighteen years
15 of age or younger who is a ward of the state or any court and
16 who is placed in a county detention home established under section
17 43-2,110, the cost of his or her education shall be paid by the
18 state, regardless of the district in which he or she resided at
19 the time he or she became a ward, to the agency or institution
20 which: (a) Is selected by the county board with jurisdiction over
21 such detention home; (b) has agreed or contracted with such county
22 board to provide educational services; and (c) has been approved by
23 the State Department of Education pursuant to rules and regulations
24 prescribed by the State Board of Education.

25 ~~(10)~~ (12) No tuition shall be charged for students who

1 may be by law allowed to attend the school without charge.

2 ~~(11)~~ (13) On a form prescribed by the State Department
3 of Education, an adult with legal or actual charge or control of
4 a student shall provide the name of the student, the name of the
5 adult with legal or actual charge or control of the student, the
6 address where the student is residing, and the telephone number
7 and address where the adult may generally be reached during the
8 school day. If the student is homeless or if the adult does not
9 have a telephone number and address where he or she may generally
10 be reached during the school day, those parts of the form may be
11 left blank and a box may be marked acknowledging that these are the
12 reasons these parts of the form were left blank. The adult with
13 legal or actual charge or control of the student shall also sign
14 the form.

15 ~~(12)~~ (14) The department ~~shall~~ may adopt and
16 promulgate rules and regulations to carry out the department's
17 responsibilities under this section.

18 Sec. 4. Section 79-2,136, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 79-2,136 Each school board shall allow the part-time
21 enrollment of students who are residents of the school district
22 pursuant to ~~subsection~~ ~~(1)~~ subsections (1) and (2) of section
23 79-215 and who are also enrolled in a private, denominational,
24 or parochial school or in a school which elects pursuant to
25 section 79-1601 not to meet accreditation or approval requirements

1 and shall establish policies and procedures for such part-time
2 enrollment. Such policies and procedures may include provisions
3 permitting the part-time enrollment of such students who are
4 not residents of such school districts and may require part-time
5 students to follow school policies that apply to other students at
6 any time the part-time student is present on school grounds or at
7 a school-sponsored activity or athletic event. Part-time enrollment
8 shall not entitle a student to transportation or transportation
9 reimbursements pursuant to section 79-611. Nothing in this section
10 shall be construed to exempt any student from the compulsory
11 attendance provisions of sections 79-201 to 79-207.

12 Sec. 5. Section 79-318, Revised Statutes Supplement,
13 2009, is amended to read:

14 79-318 The State Board of Education shall:

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

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

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

24 (4) Organize the State Department of Education into such
25 divisions, branches, or sections as may be necessary or desirable

1 to perform all its proper functions and to render maximum service
2 to the board and to the state school system;

3 (5) Provide, through the commissioner and his or her
4 professional staff, enlightened professional leadership, guidance,
5 and supervision of the state school system, including educational
6 service units. In order that the commissioner and his or her
7 staff may carry out their duties, the board shall, through the
8 commissioner: (a) Provide supervisory and consultation services
9 to the schools of the state; (b) issue materials helpful in the
10 development, maintenance, and improvement of educational facilities
11 and programs; (c) establish rules and regulations which govern
12 standards and procedures for the approval and legal operation
13 of all schools in the state and for the accreditation of all
14 schools requesting state accreditation. All public, private,
15 denominational, or parochial schools shall either comply with
16 the accreditation or approval requirements prescribed in this
17 section and section 79-703 or, for those schools which elect not
18 to meet accreditation or approval requirements, the requirements
19 prescribed in subsections (2) through (6) of section 79-1601.
20 Standards and procedures for approval and accreditation shall
21 be based upon the program of studies, guidance services, the
22 number and preparation of teachers in relation to the curriculum
23 and enrollment, instructional materials and equipment, science
24 facilities and equipment, library facilities and materials, and
25 health and safety factors in buildings and grounds. Rules and

1 regulations which govern standards and procedures for private,
2 denominational, and parochial schools which elect, pursuant to the
3 procedures prescribed in subsections (2) through (6) of section
4 79-1601, not to meet state accreditation or approval requirements
5 shall be as described in such section; (d) institute a statewide
6 system of testing to determine the degree of achievement and
7 accomplishment of all the students within the state's school
8 systems if it determines such testing would be advisable;
9 (e) prescribe a uniform system of records and accounting for
10 keeping adequate educational and financial records, for gathering
11 and reporting necessary educational data, and for evaluating
12 educational progress; (f) cause to be published laws, rules, and
13 regulations governing the schools and the school lands and funds
14 with explanatory notes for the guidance of those charged with the
15 administration of the schools of the state; (g) approve teacher
16 education programs conducted in Nebraska postsecondary educational
17 institutions designed for the purpose of certificating teachers
18 and administrators; (h) approve ~~teacher~~ certificated-employee
19 evaluation policies and procedures developed by school districts
20 and educational service units; and (i) approve general plans and
21 adopt educational policies, standards, rules, and regulations for
22 carrying out the board's responsibilities and those assigned to the
23 State Department of Education by the Legislature;

24 (6) Adopt and promulgate rules and regulations for
25 the guidance, supervision, accreditation, and coordination of

1 educational service units. Such rules and regulations for
2 accreditation shall include, but not be limited to, (a) a
3 requirement that programs and services offered to school districts
4 by each educational service unit shall be evaluated on a regular
5 basis, but not less than every seven years, to assure that
6 educational service units remain responsive to school district
7 needs and (b) guidelines for the use and management of funds
8 generated from the property tax levy and from other sources of
9 revenue as may be available to the educational service units,
10 to assure that public funds are used to accomplish the purposes
11 and goals assigned to the educational service units by section
12 79-1204. The State Board of Education shall establish procedures to
13 encourage the coordination of activities among educational service
14 units and to encourage effective and efficient educational service
15 delivery on a statewide basis;

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

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

24 (9) Provide for consultation with professional educators
25 and lay leaders for the purpose of securing advice deemed necessary

1 in the formulation of policies and in the effectual discharge of
2 its duties;

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

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

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

14 (13) With the advice of the Department of Motor Vehicles,
15 adopt and promulgate rules and regulations containing reasonable
16 standards, not inconsistent with existing statutes, governing: (a)
17 The general design, equipment, color, operation, and maintenance
18 of any vehicle with a manufacturer's rated seating capacity of
19 eleven or more passengers used for the transportation of public,
20 private, denominational, or parochial school students; and (b)
21 the equipment, operation, and maintenance of any vehicle with a
22 capacity of ten or less passengers used for the transportation of
23 public, private, denominational, or parochial school students, when
24 such vehicles are owned, operated, or owned and operated by any
25 public, private, denominational, or parochial school or privately

1 owned or operated under contract with any such school in this
2 state, except for vehicles owned by individuals operating a school
3 which elects pursuant to section 79-1601 not to meet accreditation
4 or approval requirements. Similar rules and regulations shall be
5 adopted and promulgated for operators of such vehicles as provided
6 in section 79-607;

7 (14) Accept, on behalf of the Nebraska Center for the
8 Education of Children who are Blind or Visually Impaired, devises
9 of real property or donations or bequests of other property, or
10 both, if in its judgment any such devise, donation, or bequest
11 is for the best interest of the center or the students receiving
12 services from the center, or both, and irrigate or otherwise
13 improve any such real estate when in the board's judgment it would
14 be advisable to do so; and

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

24 Each member of the Legislature shall receive a copy of
25 the report required by subdivision (7) of this section by making a

1 request for it to the commissioner.

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

6 Sec. 6. Section 79-4,108, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 79-4,108 (1) Unified system means two or more Class II or
9 III school districts participating in an interlocal agreement
10 under the Interlocal Cooperation Act with approval from the
11 State Committee for the Reorganization of School Districts. The
12 interlocal agreement may include Class I districts if the entire
13 valuation is included in the unified system. The interlocal
14 agreement shall provide for a minimum term of three school
15 years. The agreement shall provide that all property tax and
16 state aid resources shall be shared by the unified system and
17 that a board composed of school board members, with at least
18 one school board member from each district, shall determine
19 the general fund levy, within the limitations placed on school
20 districts and multiple-district school systems pursuant to section
21 77-3442, to be applied in all participating districts and shall
22 determine the distribution of property tax and state aid resources
23 within the unified system. For purposes of section 77-3442, the
24 multiple-district school system shall include all of the Class I,
25 II, and III districts participating in the unified system and the

1 Class I districts or portions thereof affiliated with any of the
2 participating Class II and III districts. The interlocal agreement
3 shall also provide that certificated staff will be employees
4 of the unified system. For any certificated staff employed by
5 the unified system, tenure and seniority as of the effective
6 date of the interlocal agreement shall be transferred to the
7 unified system and tenure and seniority provisions shall continue
8 in the unified system except as provided in sections 79-850 to
9 79-858. If a district withdraws from the unified system or if
10 the interlocal agreement expires and is not renewed, certificated
11 staff employed by a participating district immediately prior to
12 the unification shall be reemployed by the original district and
13 tenure and seniority as of the effective date of the withdrawal
14 or expiration shall be transferred to the original district. The
15 certificated staff hired by the unified system but not employed
16 by a participating district immediately prior to the unification
17 shall be subject to the reduction-in-force policy of the unified
18 system. The interlocal agreement shall also require participating
19 districts to pay obligations of the unified system pursuant to
20 sections 79-850 to 79-858 on a pro rata basis based on the adjusted
21 valuations if a district withdraws from the unified system or if
22 the interlocal agreement expires and is not renewed. Additional
23 provisions in the interlocal agreement shall be determined by the
24 participating districts and shall encourage cooperation within the
25 unified system.

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

17 (3) Upon granting the application for unification,
18 the State Department of Education shall recognize the unified
19 system as a single Class II or III district for state aid,
20 budgeting, accreditation, enrollment of students, state programs,
21 and reporting. ~~___, except that the department shall require~~
22 ~~such reporting on an individual district basis as necessary to~~
23 ~~calculate formula need pursuant to the Tax Equity and Educational~~
24 ~~Opportunities Support Act separately for each participating~~
25 ~~district beginning with the calculation of state aid for~~

1 ~~school fiscal year 2009-10-~~ Except as otherwise required by
2 the department, the unified system shall submit a single report
3 document for each of the reports required of school districts
4 pursuant to Chapter 79 and shall submit a single budget document
5 pursuant to the Nebraska Budget Act and sections 13-518 to 13-522.
6 The class of district shall be the same as the majority of
7 participating districts, excluding Class I districts. If there are
8 an equal number of Class II and Class III districts in the unified
9 system, the unified system shall be recognized by the department as
10 a Class III district.

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

15 (5) The withdrawal of a participating school district
16 from a unified system or dissolution of a unified system shall
17 occur only if each participating school district in such unified
18 system either will be merged with at least one other school
19 district or will continue participation in such unified system
20 with at least one other participating school district following
21 such withdrawal or dissolution. The withdrawal of a participating
22 school district from a unified system or dissolution of a unified
23 system shall be accomplished and the rights and liabilities of
24 the participating school districts determined through an action for
25 declaratory judgment pursuant to the Uniform Declaratory Judgments

1 Act. An action under the act praying for the withdrawal of a
2 participating school district, dissolution of the unified system,
3 or a declaration of the rights and liabilities of the participating
4 school districts may be brought by the school board of any
5 participating school district. The court shall have jurisdiction
6 to determine all matters relating to the rights and liabilities
7 of the participating school districts, including, but not limited
8 to, the allocation among the participating school districts of
9 (a) the certificated staff employed by the unified system among
10 the participating school districts, (b) the real and personal
11 property acquired by and held in the name of the unified system,
12 (c) the local, state, and federal revenue of the unified system,
13 including state aid to be paid to the unified system for the year
14 following the withdrawal of a participating school district or the
15 dissolution of the unified system, and (d) the liability for the
16 repayment pursuant to subsection (8) of section 79-1010 of any
17 incentive aid received by the unified system and its participating
18 school districts, which liability shall be subtracted from the
19 state aid of the participating school districts to which such
20 repayment is allocated for the school fiscal years following the
21 last school fiscal year of participation of a withdrawing school
22 district or the operation of the dissolved unified system. The
23 State Department of Education shall implement and enforce all terms
24 of any decree of declaratory judgment entered pursuant to this
25 section.

1 (6) After April 3, 2008, the State Committee for the
2 Reorganization of School Districts shall not approve or order into
3 effect any new unified system under this section. The committee
4 may approve and order into effect the addition of school districts
5 to a unified system or the continuation of a unified system if
6 the continuing unified system will consist of at least two school
7 districts which are continuing participation in the unified system.

8 Sec. 7. The State Board of Education shall enter into
9 memoranda of understanding on or before September 1, 2010, with
10 the Board of Regents of the University of Nebraska, the Board of
11 Trustees of the Nebraska State Colleges, and the board of governors
12 of each community college area to adopt a policy to share student
13 data. At a minimum, the policy shall ensure that the exchange of
14 information is conducted in conformance with the requirements of
15 the federal Family Educational Rights and Privacy Act of 1974,
16 as amended, 20 U.S.C. 1232g, and all federal regulations and
17 applicable guidelines adopted in accordance with such act, as such
18 act, regulations, and guidelines existed on January 1, 2010.

19 Sec. 8. Section 79-8,137.01, Revised Statutes Supplement,
20 2009, is amended to read:

21 79-8,137.01 The Enhancing Excellence in Teaching Program
22 is created. For purposes of the Enhancing Excellence in Teaching
23 Program:

24 (1) Department means the State Department of Education;

25 (2) Eligible graduate program means a program of study

1 offered by an eligible institution which results in obtaining a
2 graduate degree;

3 ~~(2)~~ (3) Eligible institution means a not-for-profit
4 college or university which (a) is located in Nebraska, (b)
5 is accredited by the North Central Association of Colleges and
6 Schools, (c) has a teacher education program, and (d) if a
7 privately funded college or university, has not opted out of the
8 ~~program~~ Enhancing Excellence in Teaching Program pursuant to rules
9 and regulations;

10 ~~(3)~~ (4) Eligible student means an individual who (a) is a
11 certificated teacher employed to teach in an approved or accredited
12 school in Nebraska, (b) is enrolled in an eligible ~~institution~~
13 ~~in a graduate teacher education~~ graduate program, (c) if enrolled
14 at a state-funded eligible institution, is a resident student
15 as described in section 85-502 or, if enrolled in a privately
16 funded eligible institution, would be deemed a resident student
17 if enrolled in a state-funded eligible institution, and (d) is
18 majoring in a shortage area, curriculum and instruction, a subject
19 area in which the individual already holds a secular teaching
20 endorsement, or a subject area that will result in an additional
21 secular teaching endorsement which the superintendent of the school
22 district or head administrator of the private, denominational,
23 or parochial school employing the individual believes will be
24 beneficial to the students of such school district or school as
25 evidenced by a statement signed by the superintendent or head

1 administrator;

2 ~~(4) Graduate teacher education program means a program~~
3 ~~of study approved by the State Board of Education pursuant to~~
4 ~~subdivision (5)-(g) of section 79-318 which results in obtaining a~~
5 ~~graduate degree;~~

6 (5) Majoring in a shortage area or subject area means
7 pursuing a degree which will allow an individual to be properly
8 endorsed to teach in such shortage area or subject area; and

9 (6) Shortage area means a secular field of teaching for
10 which there is a shortage, as determined by the department, of
11 properly endorsed teachers at the time the borrower first receives
12 funds pursuant to the ~~program~~ Enhancing Excellence in Teaching
13 Program.

14 Sec. 9. Section 79-8,137.02, Revised Statutes Supplement,
15 2009, is amended to read:

16 79-8,137.02 The purposes of the Enhancing Excellence in
17 Teaching Program are to:

18 (1) Retain teachers in the accredited or approved public
19 and private schools of Nebraska;

20 (2) Improve the skills of existing teachers in Nebraska
21 through the graduate education programs of Nebraska's postsecondary
22 educational institutions; and

23 (3) Establish a loan contract that requires a borrower
24 to continue employment as a teacher in this state after graduation
25 from a ~~graduate teacher education~~ eligible graduate program.

1 Sec. 10. Section 79-8,137.03, Revised Statutes
2 Supplement, 2009, is amended to read:

3 79-8,137.03 (1) The department shall administer the
4 Enhancing Excellence in Teaching Program either directly or by
5 contracting with public or private entities.

6 (2) To be eligible for the program, an eligible student
7 shall:

8 (a) Agree to complete a an eligible graduate teacher
9 education program at an eligible institution and to complete the
10 major on which the applicant's eligibility is based as determined
11 by the department; and

12 (b) Commit to teach in an accredited or approved public
13 or private school in Nebraska upon successful completion of the
14 eligible graduate teacher education program for which the applicant
15 is applying to the Enhancing Excellence in Teaching Program and to
16 maintaining certification pursuant to sections 79-806 to 79-815.

17 (3) Eligible students may apply on an annual basis for
18 loans in an amount of not more than one hundred seventy-five
19 dollars per credit hour. Loans awarded to individual students shall
20 not exceed a cumulative period exceeding five consecutive years.
21 Loans shall only be awarded through the department. Loans shall be
22 funded pursuant to section 79-8,137.05.

23 Sec. 11. Section 79-8,137.04, Revised Statutes
24 Supplement, 2009, is amended to read:

25 79-8,137.04 (1) Prior to receiving any money from a

1 loan pursuant to the Enhancing Excellence in Teaching Program, an
2 eligible student shall enter into a contract with the department.
3 Such contract shall be exempt from the requirements of sections
4 73-501 to 73-509. The contract shall require that if (a) the
5 borrower is not employed as a full-time teacher teaching in an
6 approved or accredited school in Nebraska for a time period equal
7 to the number of years required for loan forgiveness pursuant
8 to subsection (2) of this section or (b) the borrower does not
9 complete the requirements for graduation within five consecutive
10 years after receiving the initial loan under the program, then the
11 loan shall be repaid, with interest at the rate fixed pursuant
12 to section 45-103 accruing as of the date the borrower signed
13 the contract and actual collection costs as determined by the
14 department. If a borrower fails to remain enrolled at an eligible
15 institution or otherwise fails to meet the requirements of an
16 eligible student, repayment of the loan shall commence within
17 six months after such change in eligibility. The State Board of
18 Education may by rules and regulations provide for exceptions to
19 the conditions of repayment pursuant to this subsection based upon
20 mitigating circumstances.

21 (2) If the borrower (a) successfully completes the
22 ~~teacher education~~ eligible graduate program and major for which
23 the borrower is receiving a forgivable loan pursuant to the
24 ~~program~~ Enhancing Excellence in Teaching Program and maintains
25 certification pursuant to sections 79-806 to 79-815, (b) maintains

1 employment as a teacher in an approved or accredited school in this
2 state, and (c) otherwise meets the requirements of the contract,
3 payments shall be suspended for the number of years that the
4 borrower is required to remain employed as a teacher in this state
5 under the contract. Beginning after the first two years of teaching
6 full-time in Nebraska following graduation for the degree for which
7 the loan was received, for each year that the borrower teaches
8 full-time in Nebraska pursuant to the contract, the loan shall be
9 forgiven in an amount equal to three thousand dollars, except that
10 if the borrower teaches full-time in a school district that is
11 in a local system classified as very sparse as defined in section
12 79-1003, teaches in a school building in which at least forty
13 percent of the students are poverty students as defined in section
14 79-1003, or teaches in an accredited or approved private school in
15 Nebraska in which at least forty percent of the enrolled students
16 qualified for free lunches as determined by the most recent data
17 available from the department, payments shall be forgiven each year
18 in an amount equal to six thousand dollars.

19 Sec. 12. Section 79-1003, Revised Statutes Supplement,
20 2009, as amended by section 3, Legislative Bill 5, One Hundred
21 First Legislature, First Special Session, 2009, is amended to read:

22 79-1003 For purposes of the Tax Equity and Educational
23 Opportunities Support Act:

24 (1) Adjusted general fund operating expenditures means
25 (a) for school fiscal years before school fiscal year 2007-08,

1 general fund operating expenditures as calculated pursuant to
2 subdivision (21) of this section minus the transportation allowance
3 and minus the special receipts allowance, (b) for school fiscal
4 year 2007-08, general fund operating expenditures as calculated
5 pursuant to subdivision (21) of this section minus the sum of
6 the transportation, special receipts, and distance education
7 and telecommunications allowances, (c) for school fiscal year
8 2008-09, the difference of the product of the general fund
9 operating expenditures as calculated pursuant to subdivision (21)
10 of this section multiplied by the cost growth factor calculated
11 pursuant to section 79-1007.10 minus the transportation allowance,
12 special receipts allowance, poverty allowance, limited English
13 proficiency allowance, distance education and telecommunications
14 allowance, elementary site allowance, elementary class size
15 allowance, summer school allowance, and focus school and program
16 allowance, (d) for school fiscal year 2009-10, the difference
17 of the product of the general fund operating expenditures
18 as calculated pursuant to subdivision (21) of this section
19 multiplied by the cost growth factor calculated pursuant to
20 section 79-1007.10 minus the transportation allowance, special
21 receipts allowance, poverty allowance, limited English proficiency
22 allowance, distance education and telecommunications allowance,
23 elementary site allowance, elementary class size allowance, summer
24 school allowance, instructional time allowance, and focus school
25 and program allowance, (e) for school fiscal years 2010-11 through

1 2012-13, the difference of the product of the general fund
2 operating expenditures as calculated pursuant to subdivision (21)
3 of this section multiplied by the cost growth factor calculated
4 pursuant to section 79-1007.10 minus the transportation allowance,
5 special receipts allowance, poverty allowance, limited English
6 proficiency allowance, distance education and telecommunications
7 allowance, elementary site allowance, elementary class size
8 allowance, summer school allowance, instructional time allowance,
9 teacher education allowance, and focus school and program
10 allowance, and (f) for school fiscal year 2013-14 and each
11 school fiscal year thereafter, the difference of the product of
12 the general fund operating expenditures as calculated pursuant
13 to subdivision (21) of this section multiplied by the cost
14 growth factor calculated pursuant to section 79-1007.10 minus
15 the transportation allowance, special receipts allowance, poverty
16 allowance, limited English proficiency allowance, distance
17 education and telecommunications allowance, elementary site
18 allowance, summer school allowance, instructional time allowance,
19 teacher education allowance, and focus school and program
20 allowance;

21 (2) Adjusted valuation means the assessed valuation of
22 taxable property of each local system in the state, adjusted
23 pursuant to the adjustment factors described in section 79-1016.
24 Adjusted valuation means the adjusted valuation for the property
25 tax year ending during the school fiscal year immediately preceding

1 the school fiscal year in which the aid based upon that value is
2 to be paid. For purposes of determining the local effort rate yield
3 pursuant to section 79-1015.01, adjusted valuation does not include
4 the value of any property which a court, by a final judgment from
5 which no appeal is taken, has declared to be nontaxable or exempt
6 from taxation;

7 (3) Allocated income tax funds means the amount of
8 assistance paid to a local system pursuant to section 79-1005.01 or
9 79-1005.02 as adjusted by the minimum levy adjustment pursuant to
10 section 79-1008.02;

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

15 (5) Average daily membership means the average daily
16 membership for grades kindergarten through twelve attributable to
17 the local system, as provided in each district's annual statistical
18 summary, and includes the proportionate share of students enrolled
19 in a public school instructional program on less than a full-time
20 basis;

21 (6) Base fiscal year means the first school fiscal year
22 following the school fiscal year in which the reorganization or
23 unification occurred;

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

25 (8) Categorical funds means funds limited to a specific

1 purpose by federal or state law, including, but not limited to,
2 Title I funds, Title VI funds, federal vocational education funds,
3 federal school lunch funds, Indian education funds, Head Start
4 funds, and funds from the Education Innovation Fund;

5 (9) Consolidate means to voluntarily reduce the number of
6 school districts providing education to a grade group and does not
7 include dissolution pursuant to section 79-498;

8 (10) Department means the State Department of Education;

9 (11) District means any Class I, II, III, IV, V, or
10 VI school district and, beginning with the calculation of state
11 aid for school fiscal year 2011-12 and each school fiscal year
12 thereafter, a unified system as defined in section 79-4,108;

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

15 (13) Equalization aid means the amount of assistance
16 calculated to be paid to a local system pursuant to sections
17 79-1007.11 to 79-1007.23, 79-1008.01 to 79-1022, and 79-1022.02 and
18 section 8 of this act;

19 (14) Fall membership means the total membership in
20 kindergarten through grade twelve attributable to the local system
21 as reported on the fall school district membership reports for each
22 district pursuant to section 79-528;

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

25 (16) Formula students means:

1 (a) For school fiscal years prior to school fiscal year
2 2008-09, (i) for state aid certified pursuant to section 79-1022,
3 the sum of fall membership from the school fiscal year immediately
4 preceding the school fiscal year in which the aid is to be paid,
5 multiplied by the average ratio of average daily membership to fall
6 membership for the second school fiscal year immediately preceding
7 the school fiscal year in which aid is to be paid and the prior
8 two school fiscal years, plus qualified early childhood education
9 fall membership plus tuitioned students from the school fiscal year
10 immediately preceding the school fiscal year in which the aid is
11 to be paid and (ii) for final calculation of state aid pursuant to
12 section 79-1065, the sum of average daily membership plus qualified
13 early childhood education average daily membership plus tuitioned
14 students from the school fiscal year immediately preceding the
15 school fiscal year in which the aid was paid; and

16 (b) For school fiscal year 2008-09 and each school fiscal
17 year thereafter, (i) for state aid certified pursuant to section
18 79-1022, the sum of the product of fall membership from the school
19 fiscal year immediately preceding the school fiscal year in which
20 the aid is to be paid multiplied by the average ratio of average
21 daily membership to fall membership for the second school fiscal
22 year immediately preceding the school fiscal year in which the aid
23 is to be paid and the prior two school fiscal years plus sixty
24 percent of the qualified early childhood education fall membership
25 plus tuitioned students from the school fiscal year immediately

1 preceding the school fiscal year in which aid is to be paid minus
2 the product of the number of students enrolled in kindergarten that
3 is not full-day kindergarten from the fall membership multiplied by
4 0.5 and (ii) for final calculation of state aid pursuant to section
5 79-1065, the sum of average daily membership plus sixty percent of
6 the qualified early childhood education average daily membership
7 plus tuitioned students minus the product of the number of students
8 enrolled in kindergarten that is not full-day kindergarten from the
9 average daily membership multiplied by 0.5 from the school fiscal
10 year immediately preceding the school fiscal year in which aid was
11 paid;

12 (17) Free lunch and free milk student means a student
13 who qualified for free lunches or free milk from the most recent
14 data available on November 1 of the school fiscal year immediately
15 preceding the school fiscal year in which aid is to be paid;

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

19 (19) General fund budget of expenditures means the total
20 budget of disbursements and transfers for general fund purposes as
21 certified in the budget statement adopted pursuant to the Nebraska
22 Budget Act, except that for purposes of the limitation imposed in
23 section 79-1023 and the calculation pursuant to subdivision (2) of
24 section 79-1027.01, the general fund budget of expenditures does
25 not include any special grant funds, exclusive of local matching

1 funds, received by a district;

2 (20) General fund expenditures means all expenditures
3 from the general fund;

4 (21) General fund operating expenditures means:

5 (a) For state aid calculated for school fiscal years
6 prior to school fiscal year 2008-09, the total general fund
7 expenditures minus categorical funds, tuition paid, transportation
8 fees paid to other districts, adult education, summer school,
9 community services, redemption of the principal portion of general
10 fund debt service, retirement incentive plans, staff development
11 assistance, and transfers from other funds into the general fund
12 for the second school fiscal year immediately preceding the school
13 fiscal year in which aid is to be paid as reported on the annual
14 financial report prior to December 1 of the school fiscal year
15 immediately preceding the school fiscal year in which aid is to be
16 paid;

17 (b) For state aid calculated for school fiscal year
18 2008-09, as reported for the second school fiscal year immediately
19 preceding the school fiscal year in which aid is to be paid
20 on the annual financial report submitted prior to December
21 1 of the school fiscal year immediately preceding the school
22 fiscal year in which aid is to be paid, the total general
23 fund expenditures minus (i) the amount of all receipts to
24 the general fund, to the extent that such receipts are not
25 included in local system formula resources, from early childhood

1 education tuition, summer school tuition, educational entities as
2 defined in section 79-1201.01 for providing distance education
3 courses through the Educational Service Unit Coordinating Council
4 to such educational entities, private foundations, individuals,
5 associations, charitable organizations, the textbook loan program
6 authorized by section 79-734, and federal impact aid, (ii)
7 the amount of expenditures for categorical funds, tuition paid,
8 transportation fees paid to other districts, adult education,
9 community services, redemption of the principal portion of general
10 fund debt service, retirement incentive plans authorized by section
11 79-855, and staff development assistance authorized by section
12 79-856, and (iii) the amount of any transfers from the general fund
13 to any bond fund and transfers from other funds into the general
14 fund;

15 (c) For state aid calculated for school fiscal year
16 2009-10, as reported on the annual financial report for the second
17 school fiscal year immediately preceding the school fiscal year
18 in which aid is to be paid, the total general fund expenditures
19 minus (i) the amount of all receipts to the general fund, to the
20 extent that such receipts are not included in local system formula
21 resources, from early childhood education tuition, summer school
22 tuition, educational entities as defined in section 79-1201.01
23 for providing distance education courses through the Educational
24 Service Unit Coordinating Council to such educational entities,
25 private foundations, individuals, associations, charitable

1 organizations, the textbook loan program authorized by section
2 79-734, and federal impact aid, (ii) the amount of expenditures
3 for categorical funds, tuition paid, transportation fees paid to
4 other districts, adult education, community services, redemption
5 of the principal portion of general fund debt service, retirement
6 incentive plans authorized by section 79-855, and staff development
7 assistance authorized by section 79-856, (iii) the amount of any
8 transfers from the general fund to any bond fund and transfers from
9 other funds into the general fund, and (iv) any legal expenses in
10 excess of fifteen-hundredths of one percent of the formula need for
11 the school fiscal year in which the expenses occurred; and

12 (d) For state aid calculated for school fiscal year
13 2010-11 and each school fiscal year thereafter, as reported on
14 the annual financial report for the second school fiscal year
15 immediately preceding the school fiscal year in which aid is to be
16 paid, the total general fund expenditures minus (i) the amount of
17 all receipts to the general fund, to the extent that such receipts
18 are not included in local system formula resources, from early
19 childhood education tuition, summer school tuition, educational
20 entities as defined in section 79-1201.01 for providing distance
21 education courses through the Educational Service Unit Coordinating
22 Council to such educational entities, private foundations,
23 individuals, associations, charitable organizations, the textbook
24 loan program authorized by section 79-734, federal impact aid,
25 and levy override elections pursuant to section 77-3444, (ii)

1 the amount of expenditures for categorical funds, tuition paid,
2 transportation fees paid to other districts, adult education,
3 community services, redemption of the principal portion of general
4 fund debt service, retirement incentive plans authorized by section
5 79-855, and staff development assistance authorized by section
6 79-856, (iii) the amount of any transfers from the general fund
7 to any bond fund and transfers from other funds into the general
8 fund, (iv) any legal expenses in excess of fifteen-hundredths of
9 one percent of the formula need for the school fiscal year in which
10 the expenses occurred, (v) expenditures to pay for sums agreed to
11 be paid by a school district to certificated employees in exchange
12 for a voluntary termination occurring prior to July 1, 2009, and
13 (vi) (A) expenditures in school fiscal years 2009-10 through 2013-14
14 to pay for employer contributions pursuant to subsection (2) of
15 section 79-958 to the School Retirement System of the State of
16 Nebraska to the extent that such expenditures exceed the employer
17 contributions under such subsection that would have been made at a
18 contribution rate of seven and thirty-five hundredths percent or
19 (B) expenditures in school fiscal years 2009-10 through 2013-14
20 to pay for school district contributions pursuant to subdivision
21 (1)(c)(i) of section 79-9,113 to the Class V School Employees
22 Retirement System to the extent that such expenditures exceed the
23 school district contributions under such subdivision that would
24 have been made at a contribution rate of seven and thirty-seven
25 hundredths percent.

1 For purposes of this subdivision (21) of this section,
2 receipts from levy override elections shall equal ninety-nine
3 percent of the difference of the total general fund levy minus
4 a levy of one dollar and five cents per one hundred dollars of
5 taxable valuation multiplied by the assessed valuation for school
6 districts that have voted pursuant to section 77-3444 to override
7 the maximum levy provided pursuant to section 77-3442;

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

10 (23) Income tax liability means the amount of the
11 reported income tax liability for resident individuals pursuant
12 to the Nebraska Revenue Act of 1967 less all nonrefundable credits
13 earned and refunds made;

14 (24) Income tax receipts means the amount of income tax
15 collected pursuant to the Nebraska Revenue Act of 1967 less all
16 nonrefundable credits earned and refunds made;

17 (25) Limited English proficiency students means (a) for
18 school fiscal years prior to school fiscal year 2009-10, the number
19 of students with limited English proficiency in a district from
20 the most recent data available on November 1 of the school fiscal
21 year preceding the school fiscal year in which aid is to be paid
22 and (b) for school fiscal year 2009-10 and each school fiscal year
23 thereafter, the number of students with limited English proficiency
24 in a district from the most recent data available on November 1 of
25 the school fiscal year preceding the school fiscal year in which

1 aid is to be paid plus the difference of such students with limited
2 English proficiency minus the average number of limited English
3 proficiency students for such district, prior to such addition,
4 for the three immediately preceding school fiscal years if such
5 difference is greater than zero;

6 (26) Local system means a learning community for purposes
7 of calculation of state aid for the second full school fiscal
8 year after becoming a learning community and each school fiscal
9 year thereafter, a unified system, a Class VI district and the
10 associated Class I districts, or a Class II, III, IV, or V
11 district and any affiliated Class I districts or portions of
12 Class I districts. The membership, expenditures, and resources of
13 Class I districts that are affiliated with multiple high school
14 districts will be attributed to local systems based on the percent
15 of the Class I valuation that is affiliated with each high school
16 district;

17 (27) Low-income child means (a) for school fiscal years
18 prior to 2008-09, a child under nineteen years of age living in
19 a household having an annual adjusted gross income of fifteen
20 thousand dollars or less for the second calendar year preceding
21 the beginning of the school fiscal year for which aid is being
22 calculated and (b) for school fiscal year 2008-09 and each school
23 fiscal year thereafter, a child under nineteen years of age living
24 in a household having an annual adjusted gross income for the
25 second calendar year preceding the beginning of the school fiscal

1 year for which aid is being calculated equal to or less than the
2 maximum household income that would allow a student from a family
3 of four people to be a free lunch and free milk student during the
4 school fiscal year immediately preceding the school fiscal year for
5 which aid is being calculated;

6 (28) Low-income students means the number of low-income
7 children within the district multiplied by the ratio of the formula
8 students in the district divided by the total children under
9 nineteen years of age residing in the district as derived from
10 income tax information;

11 (29) Most recently available complete data year means
12 the most recent single school fiscal year for which the annual
13 financial report, fall school district membership report, annual
14 statistical summary, Nebraska income tax liability by school
15 district for the calendar year in which the majority of the school
16 fiscal year falls, and adjusted valuation data are available;

17 (30) Poverty students means (a) for school fiscal years
18 prior to school fiscal year 2009-10, the number of low-income
19 students or the number of students who are free lunch and free milk
20 students in a district, whichever is greater, and (b) for school
21 fiscal year 2009-10 and each school fiscal year thereafter, the
22 number of low-income students or the number of students who are
23 free lunch and free milk students in a district plus the difference
24 of the number of low-income students or the number of students
25 who are free lunch and free milk students in a district, whichever

1 is greater, minus the average number of poverty students for
2 such district, prior to such addition, for the three immediately
3 preceding school fiscal years if such difference is greater than
4 zero;

5 (31) Qualified early childhood education average daily
6 membership means the product of the average daily membership for
7 school fiscal year 2006-07 and each school fiscal year thereafter
8 of students who will be eligible to attend kindergarten the
9 following school year and are enrolled in an early childhood
10 education program approved by the department pursuant to section
11 79-1103 for such school district for such school year multiplied by
12 the ratio of the actual instructional hours of the program divided
13 by one thousand thirty-two if: (a) The program is receiving a grant
14 pursuant to such section for the third year; (b) the program has
15 already received grants pursuant to such section for three years;
16 or (c) the program has been approved pursuant to subsection (5) of
17 section 79-1103 for such school year and the two preceding school
18 years, including any such students in portions of any of such
19 programs receiving an expansion grant;

20 (32) Qualified early childhood education fall membership
21 means the product of membership on the last Friday in September
22 2006 and each year thereafter of students who will be eligible
23 to attend kindergarten the following school year and are enrolled
24 in an early childhood education program approved by the department
25 pursuant to section 79-1103 for such school district for such

1 school year multiplied by the ratio of the planned instructional
2 hours of the program divided by one thousand thirty-two if: (a)
3 The program is receiving a grant pursuant to such section for the
4 third year; (b) the program has already received grants pursuant to
5 such section for three years; or (c) the program has been approved
6 pursuant to subsection (5) of section 79-1103 for such school year
7 and the two preceding school years, including any such students in
8 portions of any of such programs receiving an expansion grant;

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

12 (34) Reorganized district means any district involved
13 in a consolidation and currently educating students following
14 consolidation;

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

17 (36) Sparse local system means a local system that is not
18 a very sparse local system but which meets the following criteria:

19 (a)(i) Less than two students per square mile in the
20 county in which each high school is located, based on the school
21 district census, (ii) less than one formula student per square
22 mile in the local system, and (iii) more than ten miles between
23 each high school attendance center and the next closest high school
24 attendance center on paved roads;

25 (b)(i) Less than one and one-half formula students per

1 square mile in the local system and (ii) more than fifteen miles
2 between each high school attendance center and the next closest
3 high school attendance center on paved roads;

4 (c) (i) Less than one and one-half formula students per
5 square mile in the local system and (ii) more than two hundred
6 seventy-five square miles in the local system; or

7 (d) (i) Less than two formula students per square mile in
8 the local system and (ii) the local system includes an area equal
9 to ninety-five percent or more of the square miles in the largest
10 county in which a high school attendance center is located in the
11 local system;

12 (37) Special education means specially designed
13 kindergarten through grade twelve instruction pursuant to section
14 79-1125, and includes special education transportation;

15 (38) Special grant funds means the budgeted receipts for
16 grants, including, but not limited to, Title I funds, Title VI
17 funds, funds from the Education Innovation Fund, reimbursements
18 for wards of the court, short-term borrowings including, but
19 not limited to, registered warrants and tax anticipation notes,
20 interfund loans, insurance settlements, and reimbursements to
21 county government for previous overpayment. The state board shall
22 approve a listing of grants that qualify as special grant funds;

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

1 (40) State board means the State Board of Education;

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

5 (42) Statewide average basic funding per formula student
6 means the statewide total basic funding for all districts divided
7 by the statewide total formula students for all districts;

8 (43) Statewide average general fund operating
9 expenditures per formula student means the statewide total
10 general fund operating expenditures for all districts divided by
11 the statewide total formula students for all districts;

12 (44) Teacher has the definition found in section 79-101;

13 (45) Temporary aid adjustment factor means (a) for school
14 fiscal years before school fiscal year 2007-08, one and one-fourth
15 percent of the sum of the local system's transportation allowance,
16 the local system's special receipts allowance, and the product
17 of the local system's adjusted formula students multiplied by
18 the average formula cost per student in the local system's
19 cost grouping and (b) for school fiscal year 2007-08, one and
20 one-fourth percent of the sum of the local system's transportation
21 allowance, special receipts allowance, and distance education and
22 telecommunications allowance and the product of the local system's
23 adjusted formula students multiplied by the average formula cost
24 per student in the local system's cost grouping;

25 (46) Tuitioned students means students in kindergarten

1 through grade twelve of the district whose tuition is paid by the
2 district to some other district or education agency; and

3 (47) Very sparse local system means a local system that
4 has:

5 (a) (i) Less than one-half student per square mile in
6 each county in which each high school attendance center is located
7 based on the school district census, (ii) less than one formula
8 student per square mile in the local system, and (iii) more than
9 fifteen miles between the high school attendance center and the
10 next closest high school attendance center on paved roads; or

11 (b) (i) More than four hundred fifty square miles in the
12 local system, (ii) less than one-half student per square mile in
13 the local system, and (iii) more than fifteen miles between each
14 high school attendance center and the next closest high school
15 attendance center on paved roads.

16 Sec. 13. Section 79-1003.01, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 79-1003.01 (1) For school fiscal year 2008-09, the
19 department shall calculate a summer school allowance for each
20 district equal to two and one-half percent of the summer school
21 student units for such district multiplied by eighty-five percent
22 of the statewide average general fund operating expenditures per
23 formula student. For purposes of this subsection, summer school
24 student unit means one student enrolled in summer school in a
25 school district, whether or not the student is in the membership

1 of the school district, for (a) at least three hours but fewer
2 than six hours per day and (b) at least twelve days but fewer
3 than twenty-four days. Each school district shall receive a summer
4 school student unit for each qualified time period for which a
5 student is enrolled, up to six units per student per summer.

6 (2) For school fiscal year 2009-10 and each school fiscal
7 year thereafter, the department shall calculate a summer school
8 allowance for each district which submits the information required
9 for the calculation on a form prescribed by the department on
10 or before October 15 of the school fiscal year preceding the
11 school fiscal year for which aid is being calculated. A summer
12 school allowance shall be equal to two and one-half percent of
13 the summer school student units for such district multiplied by
14 eighty-five percent of the statewide average general fund operating
15 expenditures per formula student. Summer school student units shall
16 be calculated for each student enrolled in summer school in a
17 school district who attends such summer school for at least twelve
18 days, whether or not the student is in the membership of the school
19 district. The initial number of units for each such student shall
20 equal the sum of the ratios, each rounded down to the nearest whole
21 number, of the number of days for which the student attended summer
22 school classes in such district for at least three hours and less
23 than six hours per day divided by twelve days and of two times the
24 number of days for which the student attended summer school classes
25 in such district for six or more hours per day divided by twelve

1 days.

2 (3) Each school district shall receive an additional
3 summer school student unit for each summer school student unit
4 attributed to remedial math or reading programs. Each school
5 district shall also receive an additional summer school student
6 unit for each summer school student unit attributed to a free
7 lunch and free milk student. This section does not prevent school
8 districts from requiring and collecting fees for summer school,
9 except that summer school student units shall not be calculated for
10 school districts which collect fees for summer school from students
11 who qualify for free or reduced-price lunches under United States
12 Department of Agriculture child nutrition programs.

13 Sec. 14. Section 79-1007.04, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 79-1007.04 (1) For school fiscal years 2008-09 through
16 2012-13, the department shall determine the elementary class size
17 allowance for each school district from information submitted by a
18 school district on a form prescribed by the department on or before
19 October 15 of the school fiscal year preceding the school fiscal
20 year for which aid is being calculated.

21 (2) For school fiscal year 2008-09, the allowance shall
22 equal the statewide average general fund operating expenditures per
23 formula student multiplied by 0.20 then multiplied by the number of
24 students in the school district in kindergarten through grade eight
25 who qualify for free or reduced-price lunches and who spend at

1 least fifty percent of the school day in a classroom with a minimum
2 of ten students and a maximum of twenty students as reported on
3 the fall membership report from the school fiscal year immediately
4 preceding the school fiscal year in which the aid is to be paid.

5 (3) For school fiscal years 2009-10 through 2012-13, the
6 allowance shall equal the statewide average general fund operating
7 expenditures per formula student multiplied by twenty percent of
8 the number of students in the school district in kindergarten
9 through grade three who spend at least fifty percent of the school
10 day in one or more classrooms with a minimum of ten students and
11 a maximum of twenty students as reported on the fall membership
12 report from the school fiscal year immediately preceding the
13 school fiscal year in which the aid is to be paid for state aid
14 certified pursuant to section 79-1022 and as reported on the annual
15 statistical summary report from the school fiscal year immediately
16 preceding the school fiscal year in which the aid was paid for the
17 final calculation of state aid pursuant to section 79-1065.

18 Sec. 15. Section 79-1007.05, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 79-1007.05 For school fiscal year 2008-09 and each
21 school fiscal year thereafter, the department shall determine
22 the focus school and program allowance for each school district
23 in a learning community which submits the information required
24 for the calculation on a form prescribed by the department on or
25 before October 15 of the school fiscal year preceding the school

1 fiscal year for which aid is being calculated. The focus school
2 and program allowance shall equal the statewide average general
3 fund operating expenditures per formula student multiplied by 0.10
4 then multiplied by the number of students participating in a focus
5 school or program as reported on the fall membership report from
6 the school fiscal year immediately preceding the school fiscal year
7 in which the aid is to be paid for state aid certified pursuant to
8 section 79-1022 and as reported on the annual statistical summary
9 report from the school fiscal year immediately preceding the school
10 fiscal year in which the aid was paid for the final calculation of
11 state aid pursuant to section 79-1065.

12 Sec. 16. Section 79-1007.23, Revised Statutes Supplement,
13 2009, as amended by section 9, Legislative Bill 5, One Hundred
14 First Legislature, First Special Session, 2009, is amended to read:

15 79-1007.23 For state aid calculated for school fiscal
16 year 2009-10 and each school fiscal year thereafter:

17 (1) The department shall calculate an instructional time
18 allowance for each district which submits the information required
19 for the calculation on a form prescribed by the department on or
20 before October 15 of the school fiscal year preceding the school
21 fiscal year for which aid is being calculated. The instructional
22 time allowance shall be equal to the product of the formula
23 students of such district multiplied by the instructional time
24 factor for such district multiplied by eighty-five percent of the
25 statewide average general fund operating expenditures per formula

1 student;

2 (2) The instructional time factor shall equal the
3 difference of the ratio of the district's average hours of
4 instruction for each full-time student during the regular school
5 year for the most recently available complete data year divided by:
6 (a) For state aid calculated for school fiscal year 2009-10, the
7 comparison group average hours of instruction for each full-time
8 student during the regular school year for the most recently
9 available complete data year minus one; or (b) for state aid
10 calculated for school fiscal year 2010-11 and each school fiscal
11 year thereafter, the statewide average hours of instruction for
12 each full-time student during the regular school year for the most
13 recently available complete data year minus one, except that if
14 the result is less than zero, the instructional time factor shall
15 equal zero;

16 (3) For school fiscal years 2009-10 and 2010-11, the
17 comparison group average hours of instruction for each full-time
18 student shall be an average of the averages for all school
19 districts in the comparison group. The average hours of instruction
20 shall be defined by the department and shall not include
21 extracurricular activities outside of the regular school day or
22 time designated for students to eat lunch. The statewide average
23 hours of instruction for each full-time student shall be an average
24 of the averages for all school districts; and

25 (4) For school fiscal year 2011-12 and each school

1 fiscal year thereafter, the average hours of instruction shall be
2 defined by the department and shall be based on scheduled time for
3 courses and the number of students participating in such courses as
4 reported to the department for the most recently available complete
5 data year. Hours of instruction shall not include extracurricular
6 activities outside of the regular school day or time designated for
7 students to eat lunch. The statewide average hours of instruction
8 for each student shall be an average of the averages for all school
9 districts.

10 Sec. 17. Section 79-1013, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 79-1013 (1) On or before October ~~10~~ 15 of each year, each
13 school district designating a maximum poverty allowance greater
14 than zero dollars shall submit a poverty plan for the next school
15 fiscal year to the department and to the learning community
16 coordinating council of any learning community of which the school
17 district is a member. On or before the immediately following
18 December 1, (a) the department shall approve or disapprove such
19 plan for school districts that are not members of a learning
20 community based on the inclusion of the elements required pursuant
21 to this section and (b) the learning community coordinating council
22 and, as to the applicable portions thereof, each achievement
23 subcouncil, shall approve or disapprove such plan for school
24 districts that are members of such learning community based on
25 the inclusion of such elements. On or before the immediately

1 following December 5, each learning community coordinating council
2 shall certify to the department the approval or disapproval of the
3 poverty plan for each member school district.

4 (2) In order to be approved pursuant to this section,
5 a poverty plan shall include an explanation of how the school
6 district will address the following issues for such school fiscal
7 year:

8 (a) Attendance, including absence followup and
9 transportation for students qualifying for free or reduced-price
10 lunches who reside more than one mile from the attendance center;

11 (b) Student mobility, including transportation to allow a
12 student to continue attendance at the same school if the student
13 moves to another attendance area within the same school district or
14 within the same learning community;

15 (c) Parental involvement at the school-building level
16 with a focus on the involvement of parents in poverty and from
17 other diverse backgrounds;

18 (d) Parental involvement at the school-district level
19 with a focus on the involvement of parents in poverty and from
20 other diverse backgrounds;

21 (e) Class size reduction or maintenance of small class
22 sizes in elementary grades;

23 (f) Scheduled teaching time on a weekly basis that will
24 be free from interruptions;

25 (g) Access to early childhood education programs for

1 children in poverty;

2 (h) Student access to social workers;

3 (i) Access to summer school, extended-school-day
4 programs, or extended-school-year programs;

5 (j) Mentoring for new and newly reassigned teachers;

6 (k) Professional development for teachers and
7 administrators, focused on addressing the educational needs
8 of students in poverty and students from other diverse backgrounds;

9 (l) Coordination with elementary learning centers if the
10 school district is a member of a learning community; and

11 (m) An evaluation to determine the effectiveness of the
12 elements of the poverty plan.

13 (3) The state board shall establish a procedure for
14 appeal of decisions of the department and of learning community
15 coordinating councils to the state board for a final determination.

16 Sec. 18. Section 79-1014, Revised Statutes Supplement,
17 2009, is amended to read:

18 79-1014 (1) On or before October ~~10~~ 15 of each year, each
19 school district designating a maximum limited English proficiency
20 allowance greater than zero dollars shall submit a limited English
21 proficiency plan for the next school fiscal year to the department
22 and to the learning community coordinating council of any learning
23 community of which the school district is a member. On or before
24 the immediately following December 1, (a) the department shall
25 approve or disapprove such plans for school districts that are not

1 members of a learning community, based on the inclusion of the
2 elements required pursuant to this section and (b) the learning
3 community coordinating council, and, as to the applicable portions
4 thereof, each achievement subcouncil, shall approve or disapprove
5 such plan for school districts that are members of such learning
6 community, based on the inclusion of such elements. On or before
7 the immediately following December 5, each learning community
8 coordinating council shall certify to the department the approval
9 or disapproval of the limited English proficiency plan for each
10 member school district.

11 (2) In order to be approved pursuant to this section,
12 a limited English proficiency plan must include an explanation of
13 how the school district will address the following issues for such
14 school fiscal year:

15 (a) Identification of students with limited English
16 proficiency;

17 (b) Instructional approaches;

18 (c) Assessment of such students' progress toward
19 mastering the English language; and

20 (d) An evaluation to determine the effectiveness of the
21 elements of the limited English proficiency plan.

22 (3) The state board shall establish a procedure for
23 appeal of decisions of the department and of learning community
24 coordinating councils to the state board for a final determination.

25 Sec. 19. Section 79-1022, Revised Statutes Supplement,

1 2009, is amended to read:

2 79-1022 (1) On ~~or before June 1, 2009,~~ ~~or~~ or before March
3 ~~1, 10,~~ 2010, on or before April 1, 2011, and on or before ~~February~~
4 March 1 of each year thereafter, the department shall determine the
5 amounts to be distributed to each local system and each district
6 pursuant to the Tax Equity and Educational Opportunities Support
7 Act and shall certify the amounts to the Director of Administrative
8 Services, the Auditor of Public Accounts, each learning community,
9 and each district. The amount to be distributed to each district
10 that is not a member of a learning community from the amount
11 certified for a local system shall be proportional based on: (a)
12 For school fiscal years prior to school fiscal year 2008-09, the
13 weighted formula students attributed to each district in the local
14 system; and (b) for school fiscal year 2008-09 and each school
15 fiscal year thereafter, the formula students attributed to each
16 district in the local system. The amount to be distributed to each
17 district that is a member of a learning community from the amount
18 certified for the local system shall be proportional based on the
19 formula needs calculated for each district in the local system.
20 On ~~or before June 1, 2009,~~ ~~or~~ or before March ~~1,~~ 10, 2010, on
21 or before April 1, 2011, and on or before ~~February~~ March 1 of
22 each year thereafter, the department shall report the necessary
23 funding level to the Governor, the Appropriations Committee of
24 the Legislature, and the Education Committee of the Legislature.
25 Certified state aid amounts, including adjustments pursuant to

1 section 79-1065.02, shall be shown as budgeted non-property-tax
2 receipts and deducted prior to calculating the property tax request
3 in the district's general fund budget statement as provided to the
4 Auditor of Public Accounts pursuant to section 79-1024.

5 (2) Except as provided in subsection (8) of section
6 79-1016 and sections 79-1033 and 79-1065.02, the amounts certified
7 pursuant to subsection (1) of this section shall be distributed in
8 ten as nearly as possible equal payments on the last business day
9 of each month beginning in September of each ensuing school fiscal
10 year and ending in June of the following year, except that when a
11 school district is to receive a monthly payment of less than one
12 thousand dollars, such payment shall be one lump-sum payment on
13 the last business day of December during the ensuing school fiscal
14 year.

15 Sec. 20. Section 79-1023, Revised Statutes Supplement,
16 2009, as amended by section 11, Legislative Bill 5, One Hundred
17 First Legislature, First Special Session, 2009, is amended to read:

18 79-1023 (1) On ~~or before June 1, 2009,~~ ~~on~~ or before March
19 1, 10, 2010, on or before April 1, 2011, and on or before ~~February~~
20 March 1 of each year thereafter, the department shall determine and
21 certify to each school district the maximum general fund budget of
22 expenditures minus the special education budget of expenditures for
23 the immediately following school fiscal year.

24 (2) Except as provided in section 79-1028.01, no
25 school district shall have a general fund budget of expenditures

1 minus special grant funds and the special education budget of
2 expenditures more than the greater of (a) the product of the
3 difference of the general fund budget of expenditures minus special
4 grant funds and the special education budget of expenditures
5 for the immediately preceding school fiscal year multiplied by
6 (i) except as otherwise provided in subdivision (a)(ii) of this
7 subsection, the sum of one plus the local system's applicable
8 allowable growth rate or (ii) for school fiscal year 2010-11, the
9 sum of one plus seventy-five hundredths of one percent plus the
10 local system's applicable allowable growth rate or (b) (i) except as
11 otherwise provided in subdivision (b) (ii) of this subsection, the
12 difference of one hundred twenty percent of formula need for such
13 school fiscal year minus the product of the sum of one plus the
14 basic allowable growth rate for such school fiscal year multiplied
15 by the special education budget of expenditures as filed on the
16 school district budget statement on or before September 20 for
17 the immediately preceding school fiscal year or (ii) for school
18 fiscal years 2009-10 and 2010-11, the difference of one hundred
19 sixteen and fifteen-hundredths percent of formula need for such
20 school fiscal year minus the product of the sum of one plus the
21 basic allowable growth rate for such school fiscal year multiplied
22 by the special education budget of expenditures as filed on the
23 school district budget statement on or before September 20 for the
24 immediately preceding school fiscal year.

25 Sec. 21. Section 79-1026.01, Revised Statutes Supplement,

1 2009, is amended to read:

2 79-1026.01 For school fiscal year 2008-09 and each school
3 fiscal year thereafter, ~~on or before June 1, 2009,~~ on or before
4 March 1, 2010, on or before April 1, 2011, and on or before
5 ~~February~~ March 1 of each year thereafter, the department shall
6 determine and certify to each Class II, III, IV, or V district an
7 applicable allowable growth rate carried out at least four decimal
8 places as follows:

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

21 (2) For each school fiscal year, each school district's
22 general fund operating expenditures shall be compared to its target
23 budget level along the range described in subdivision (1) of
24 this section to arrive at an applicable allowable growth rate
25 as follows: If each school district's general fund operating

1 expenditures fall below the lower end of the range, such applicable
 2 allowable growth rate shall be the maximum growth rate identified
 3 in section 79-1025. If each school district's general fund
 4 operating expenditures are greater than the higher end of the
 5 range, the school district's allowable growth rate shall be the
 6 basic allowable growth rate identified in such section. If each
 7 school district's general fund operating expenditures fall between
 8 the lower end and the higher end of the range, the department shall
 9 use a linear interpolation calculation between the end points of
 10 the range to arrive at the applicable allowable growth rate for the
 11 school district.

12 Sec. 22. Section 79-1027, Revised Statutes Supplement,
 13 2009, is amended to read:

14 79-1027 No district shall adopt a budget, which includes
 15 total requirements of depreciation funds, necessary employee
 16 benefit fund cash reserves, and necessary general fund cash
 17 reserves, exceeding the applicable allowable reserve percentages
 18 of total general fund budget of expenditures as specified in the
 19 schedule set forth in this section.

20	Average daily	Allowable
21	membership of	reserve
22	district	percentage
23	0 - 471	45
24	471.01 - 3,044	35
25	3,044.01 - 10,000	25

1 10,000.01 and over 20

2 On ~~or before June 1, 2009,~~ ~~or~~ or before March ~~1,~~ 10,
3 2010, on or before April 1, 2011, and on or before ~~February~~ March
4 1 each year thereafter, the department shall determine and certify
5 each district's applicable allowable reserve percentage.

6 Each district with combined necessary general fund cash
7 reserves, total requirements of depreciation funds, and necessary
8 employee benefit fund cash reserves less than the applicable
9 allowable reserve percentage specified in this section may,
10 notwithstanding the district's applicable allowable growth rate,
11 increase its necessary general fund cash reserves such that the
12 total necessary general fund cash reserves, total requirements
13 of depreciation funds, and necessary employee benefit fund
14 cash reserves do not exceed such applicable allowable reserve
15 percentage.

16 Sec. 23. Section 79-1030, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 79-1030 A Class II, III, IV, V, or VI district may choose
19 not to increase its general fund budget of expenditures by the full
20 amount of ~~its applicable allowable growth rate.~~ budget authority
21 as calculated pursuant to sections 79-1023 and 79-1026.01. In such
22 cases, the department shall calculate the amount of unused budget
23 authority which shall be carried forward to future budget years so
24 a Class II, III, IV, V, or VI district may increase its general

1 fund budget of expenditures in future budget years by the amount of
2 such total unused budget authority, ~~in addition to its applicable~~
3 ~~allowable growth rate for the specific budget year.~~

4 Sec. 24. Section 79-1031.01, Revised Statutes Supplement,
5 2009, is amended to read:

6 79-1031.01 The Appropriations Committee of the
7 Legislature shall annually include the amount necessary to fund the
8 state aid that will be certified to school districts ~~on or before~~
9 ~~June 1, 2009,~~ on or before March ~~1,~~ 10, 2010, on or before April
10 1, 2011, and on or before ~~February~~ March 1 for each school year
11 thereafter in its recommendations to the Legislature to carry out
12 the requirements of the Tax Equity and Educational Opportunities
13 Support Act.

14 Sec. 25. Section 79-10,110, Revised Statutes Supplement,
15 2009, is amended to read:

16 79-10,110 (1) After making a determination that an
17 actual or potential environmental hazard or accessibility barrier
18 exists, that a life safety code violation exists, or that
19 expenditures are needed for indoor air quality or mold abatement
20 and prevention within the school buildings or grounds under its
21 control, a school board may make and deliver to the county clerk
22 of such county in which any part of the school district is
23 situated, not later than the date provided in section 13-508,
24 an itemized estimate of the amounts necessary to be expended
25 for the abatement of such environmental hazard, for accessibility

1 barrier elimination, or for modifications for life safety code
2 violations, indoor air quality, or mold abatement and prevention
3 in such school buildings or grounds. The board shall designate the
4 particular environmental hazard abatement project, accessibility
5 barrier elimination project, or modification for life safety code
6 violations, indoor air quality, or mold abatement and prevention
7 for which the tax levy provided for by this section will be
8 expended, the period of years, which shall not exceed ten years,
9 for which the tax will be levied for such project, and the amount
10 of the levy for each year of the period.

11 (2) After a public hearing, a school board may undertake
12 any qualified capital purpose in any qualified zone academy under
13 its control and may levy a tax as provided in this section to repay
14 a qualified zone academy bond issued for such undertaking. The
15 board shall designate: (a) The particular qualified capital purpose
16 for which the qualified zone academy bond was issued and for which
17 the tax levy provided for by this section will be expended; (b)
18 the period of years for which the tax will be levied to repay such
19 qualified zone academy bond, not exceeding the maximum term for
20 such qualified zone academy bond established pursuant to federal
21 law or, for any such bond issued prior to May 20, 2009, fifteen
22 years; and (c) the amount of the levy for each year of the period.
23 The hearing required by this subsection shall be held only after
24 notice of such hearing has been published for three consecutive
25 weeks prior to the hearing in a legal newspaper published or of

1 general circulation in the school district.

2 (3) After a public hearing, a school board may undertake
3 construction of a new public school facility or the acquisition
4 of land on which such a facility is to be constructed or any
5 expansion, rehabilitation, modernization, renovation, or repair of
6 any existing school facilities under its control and may levy a
7 tax to repay any American Recovery and Reinvestment Act of 2009
8 bond. The board shall designate: (a) The particular project or
9 projects for which the bond will be issued and for which the tax
10 levy provided by this section will be expended; (b) the period of
11 years for which the tax will be levied to repay such bond, not
12 exceeding the maximum term established pursuant to federal law for
13 the type of bond as permitted by the federal American Recovery and
14 Reinvestment Act of 2009 or, if no such term is established, thirty
15 years; and (c) the amount of the levy for each year of such period.
16 Prior to the public hearing, the school board shall prepare an
17 itemized estimate of the amounts necessary to be expended for the
18 project or projects. The hearing required by this subsection shall
19 be held only after notice of such hearing has been published for
20 three consecutive weeks prior to the hearing in a legal newspaper
21 published or of general circulation in the school district. The
22 bond to be issued under this subsection may consist of any type
23 or form of bond permitted by the federal American Recovery and
24 Reinvestment Act of 2009 except qualified zone academy bonds, the
25 use of which is authorized pursuant to subsection (2) of this

1 section.

2 (4) The board may designate more than one project
3 under subsection (1) of this section, more than one qualified
4 capital purpose under subsection (2) of this section, or more
5 than one American Recovery and Reinvestment Act of 2009 purpose
6 under subsection (3) of this section and levy a tax pursuant to
7 this section for each such project, qualified capital purpose,
8 or American Recovery and Reinvestment Act of 2009 purpose,
9 concurrently or consecutively, as the case may be, if the aggregate
10 levy in each year and the duration of each such levy will not
11 exceed the limitations specified in this section. Each levy for
12 a project, a qualified capital purpose, or an American Recovery
13 and Reinvestment Act of 2009 purpose which is authorized by this
14 section may be imposed for such duration as the board specifies,
15 notwithstanding the contemporaneous existence or subsequent
16 imposition of any other levy for another project, qualified capital
17 purpose, or American Recovery and Reinvestment Act of 2009 purpose
18 imposed pursuant to this section and notwithstanding the subsequent
19 issuance by the district of bonded indebtedness payable from its
20 general fund levy.

21 (5) The county clerk shall levy such taxes, not to
22 exceed five and one-fifth cents per one hundred dollars of taxable
23 valuation for Class II, III, IV, V, and VI districts, and not to
24 exceed the limits set for Class I districts in section 79-10,124,
25 on the taxable property of the district necessary to (a) cover the

1 environmental hazard abatement or accessibility barrier elimination
2 project costs or costs for modification for life safety code
3 violations, indoor air quality, or mold abatement and prevention
4 itemized by the board pursuant to subsection (1) of this section
5 and (b) repay any qualified zone academy bonds or American Recovery
6 and Reinvestment Act of 2009 bonds pursuant to subsection (2) or
7 (3) of this section. Such taxes shall be collected by the county
8 treasurer at the same time and in the same manner as county taxes
9 are collected and when collected shall be paid to the treasurer of
10 the district and used to cover the project costs.

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

25 (7) Each board which submits an itemized estimate shall

1 establish an environmental hazard abatement and accessibility
2 barrier elimination project account, a life safety code
3 modification project account, an indoor air quality project
4 account, or a mold abatement and prevention project account,
5 each board which undertakes a qualified capital purpose shall
6 establish a qualified capital purpose undertaking account, within
7 the qualified capital purpose undertaking fund, and each board
8 which undertakes an American Recovery and Reinvestment Act of 2009
9 purpose shall establish an American Recovery and Reinvestment Act
10 of 2009 purpose undertaking account. Taxes collected pursuant to
11 this section shall be credited to the appropriate account to cover
12 the project or undertaking costs. Such estimates may be presented
13 to the county clerk and taxes levied accordingly.

14 (8) For purposes of this section:

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

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

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

12 (d) American Recovery and Reinvestment Act of 2009 bond
13 means any type or form of bond permitted by the federal American
14 Recovery and Reinvestment Act of 2009, as such act or bond may
15 be amended and supplemented, including the Hiring Incentives to
16 Restore Employment Act, as amended and supplemented, for use by
17 schools, except qualified zone academy bonds;

18 (e) American Recovery and Reinvestment Act of 2009
19 purpose means any construction of a new public school facility
20 or the acquisition of land on which such a facility is to
21 be constructed or any expansion, rehabilitation, modernization,
22 renovation, or repair of any existing school facilities financed in
23 whole or in part with an American Recovery and Reinvestment Act of
24 2009 bond;

25 (f) Environmental hazard means any contamination of the

1 air, water, or land surface or subsurface caused by any substance
2 adversely affecting human health or safety if such substance has
3 been declared hazardous by a federal or state statute, rule, or
4 regulation;

5 (g) Modification for indoor air quality includes, but
6 is not limited to, any inspection and testing regarding indoor
7 air quality, any maintenance to reduce, lessen, put an end to,
8 diminish, moderate, decrease, control, dispose of, or eliminate
9 indoor air quality problems, any restoration or replacement of
10 material or related architectural and engineering services, and any
11 other action to reduce or eliminate indoor air quality problems
12 or to enhance air quality conditions in new or existing school
13 buildings or on school grounds under the control of a school board;

14 (h) Modification for life safety code violation includes,
15 but is not limited to, any inspection and testing regarding life
16 safety codes, any maintenance to reduce, lessen, put an end to,
17 diminish, moderate, decrease, control, dispose of, or eliminate
18 life safety hazards, any restoration or replacement of material or
19 property, any related architectural and engineering services, and
20 any other action to reduce or eliminate life safety hazards in new
21 or existing school buildings or on school grounds under the control
22 of a school board;

23 (i) Modification for mold abatement and prevention
24 includes, but is not limited to, any inspection and testing
25 regarding mold abatement and prevention, any maintenance to

1 reduce, lessen, put an end to, diminish, moderate, decrease,
2 control, dispose of, or eliminate mold problems, any restoration or
3 replacement of material or related architectural and engineering
4 services, and any other action to reduce or eliminate mold problems
5 or to enhance air quality conditions in new or existing school
6 buildings or on school grounds under the control of a school board;

7 (j) Qualified capital purpose means (i) rehabilitating or
8 repairing the public school facility in which the qualified zone
9 academy is established or (ii) providing equipment for use at such
10 qualified zone academy;

11 (k) Qualified zone academy has the meaning found in (i)
12 26 U.S.C. 1397E(d)(4), as such section existed on October 3, 2008,
13 for qualified zone academy bonds issued on or before such date,
14 and (ii) 26 U.S.C. 54E(d)(1), as such section existed on October
15 4, 2008, for qualified zone academy bonds issued on or after such
16 date;

17 (l) Qualified zone academy allocation means the
18 allocation of the qualified zone academy bond limitation by the
19 State Department of Education to the qualified zone academies
20 pursuant to (i) 26 U.S.C. 1397E(e)(2), as such section existed on
21 October 3, 2008, for allocations relating to qualified zone academy
22 bonds issued on or before such date, and (ii) 26 U.S.C. 54E(c)(2),
23 as such section existed on October 4, 2008, for allocations
24 relating to qualified zone academy bonds issued on or after such
25 date; and

1 (m) Qualified zone academy bond has the meaning found in
2 (i) 26 U.S.C. 1397E(d)(1), as such section existed on October 3,
3 2008, for such bonds issued on or before such date, and (ii) 26
4 U.S.C. 54E(a), as such section existed on and after October 4,
5 2008, for such bonds issued on or after such date, as such section
6 or bonds may be amended or supplemented.

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

11 (10) For the purpose of paying amounts necessary for
12 the abatement of environmental hazards, accessibility barrier
13 elimination, or modifications for life safety code violations,
14 indoor air quality, mold abatement and prevention, or for an
15 American Recovery and Reinvestment Act of 2009 purpose, the board
16 may borrow money, establish a sinking fund, and issue bonds and
17 other evidences of indebtedness of the district, which bonds and
18 other evidences of indebtedness shall be secured by and payable
19 from an irrevocable pledge by the district of amounts received in
20 respect of the tax levy provided for by this section and any other
21 funds of the district available therefor. Bonds and other evidences
22 of indebtedness issued by a district pursuant to this subsection
23 shall not constitute a general obligation of the district or be
24 payable from any portion of its general fund levy.

25 (11) The total principal amount of bonds for

1 modifications to correct life safety code violations, for indoor
2 air quality problems, for mold abatement and prevention, or for an
3 American Recovery and Reinvestment Act of 2009 purpose which may be
4 issued pursuant to this section shall not exceed the total amount
5 specified in the itemized estimate described in subsections (1) and
6 (3) of this section.

7 (12) The total principal amount of qualified zone academy
8 bonds which may be issued pursuant to this section for qualified
9 capital purposes with respect to a qualified zone academy shall
10 not exceed the qualified zone academy allocation granted to the
11 board by the department. The total amount that may be financed by
12 qualified zone academy bonds pursuant to this section for qualified
13 purposes with respect to a qualified zone academy shall not exceed
14 seven and one-half million dollars statewide in a single year.
15 In any year that the Nebraska qualified zone academy allocations
16 exceed seven and one-half million dollars for qualified capital
17 purposes to be financed with qualified zone academy bonds issued
18 pursuant to this section, (a) the department shall reduce such
19 allocations proportionally such that the statewide total for such
20 allocations equals seven and one-half million dollars and (b) the
21 difference between the Nebraska allocation and seven and one-half
22 million dollars shall be available to qualified zone academies for
23 requests that will be financed with qualified zone academy bonds
24 issued without the benefit of this section.

25 Nothing in this section directs the State Department of

1 Education to give any preference to allocation requests that will
2 be financed with qualified zone academy bonds issued pursuant to
3 this section.

4 (13) The State Department of Education shall establish
5 procedures for allocating bond authority to school boards as may be
6 necessary pursuant to an American Recovery and Reinvestment Act of
7 2009 bond.

8 Sec. 26. Section 79-1103, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 79-1103 (1)(a) The State Department of Education shall
11 establish and administer the Early Childhood Education Grant
12 Program. Upon the effective date of an endowment agreement,
13 administration of the Early Childhood Education Grant Program
14 with respect to programs for children from birth to age three
15 shall transfer to the board of trustees. If there is no endowment
16 agreement in effect, the department shall request proposals in
17 accordance with this section for all early childhood education
18 programs from school districts, individually or in cooperation
19 with other school districts or educational service units, working
20 in cooperation with existing nonpublic programs which meet the
21 requirements of subsection (2) of section 79-1104. If there is
22 an endowment agreement in effect, the board of trustees shall
23 administer the Early Childhood Education Grant Program with respect
24 to programs for children from birth to age three pursuant to
25 section 79-1104.02 and the department shall continue to administer

1 the Early Childhood Education Grant Program with respect to
2 other prekindergarten programs pursuant to sections 79-1101 to
3 79-1104.05. All administrative procedures of the board of trustees,
4 including, but not limited to, rules, grant applications, and
5 funding mechanisms, shall harmonize with those established by the
6 department for other prekindergarten programs.

7 (b) The first priority shall be for (i) continuation
8 grants for programs that received grants in the prior school
9 fiscal year and for which the state aid calculation pursuant to
10 the Tax Equity and Educational Opportunities Support Act does not
11 include early childhood education students, in an amount equal
12 to the amount of such grant, except that if the grant was a
13 first-year grant the amount shall be reduced by thirty-three
14 percent, (ii) continuation grants for programs for which the
15 state aid calculation pursuant to the act includes early childhood
16 education students, in an amount equal to the amount of the grant
17 for the school fiscal year prior to the first school fiscal year
18 for which early childhood education students were included in the
19 state aid calculation for the school district's local system minus
20 the calculated state aid amount, and (iii) for school fiscal year
21 2007-08, continuation grants for programs for which the state aid
22 calculation pursuant to the act includes early childhood education
23 students, but such state aid calculation does not result in the
24 school district receiving any equalization aid, in an amount equal
25 to the amount of the grant received in school fiscal year 2006-07.

1 The calculated state aid amount shall be calculated by multiplying
2 the basic funding per formula student for the school district by
3 the formula students attributed to the early childhood education
4 programs pursuant to the Tax Equity and Educational Opportunities
5 Support Act.

6 (c) The second priority shall be for new grants and
7 expansion grants for programs that will serve at-risk children who
8 will be eligible to attend kindergarten the following school year.
9 New grants may be given for up to three years in an amount up to
10 one-half of the total budget of the program per year. Expansion
11 grants may be given for one year in an amount up to one-half
12 of the budget for expanding the capacity of the program to serve
13 additional children.

14 (d) The third priority shall be for new grants, expansion
15 grants, and continuation grants for programs serving children
16 younger than those who will be eligible to attend kindergarten
17 the following school year. New grants may be given for up to
18 three years in an amount up to one-half the total budget of the
19 program per year. Expansion grants may be given for one year in
20 an amount up to one-half the budget for expanding the capacity of
21 the program to serve additional children. Continuation grants under
22 this priority may be given annually in an amount up to one-half the
23 total budget of the program per year minus any continuation grants
24 received under the first priority.

25 (e) Programs serving children who will be eligible to

1 attend kindergarten the following school year shall be accounted
2 for separately for grant purposes from programs serving younger
3 children, but the two types of programs may be combined within the
4 same classroom to serve multi-age children. Programs that receive
5 grants for school fiscal years prior to school fiscal year 2005-06
6 to serve both children who will be eligible to attend kindergarten
7 the following school year and younger children shall account for
8 the two types of programs separately for grant purposes beginning
9 with school year 2005-06 and shall be deemed to have received
10 grants prior to school fiscal year 2005-06 for each year that
11 grants were received for the types of programs representing the age
12 groups of the children served.

13 (2) Each program proposal which is approved by the
14 department shall include (a) a planning period, (b) an agreement
15 to participate in periodic evaluations of the program to be
16 specified by the department, (c) evidence that the program will
17 be coordinated or contracted with existing programs, including
18 those listed in subdivision (d) of this subsection and nonpublic
19 programs which meet the requirements of subsection (2) of section
20 79-1104, (d) a plan to coordinate and use a combination of
21 local, state, and federal funding sources, including, but not
22 limited to, programs for children with disabilities below five
23 years of age funded through the Special Education Act, the Early
24 Intervention Act, funds available through the flexible funding
25 provisions under the Special Education Act, the federal Head

1 Start program, 42 U.S.C. 9831 et seq., the federal Even Start
2 Family Literacy Program, 20 U.S.C. 6361 et seq., Title I of
3 the federal Improving America's Schools Act of 1994, 20 U.S.C.
4 6301 et seq., and child care assistance through the Department
5 of Health and Human Services, (e) a plan to use sliding fee
6 scales and the funding sources included in subdivision (d) of
7 this subsection to maximize the participation of economically and
8 categorically diverse groups and to ensure that participating
9 children and families have access to comprehensive services, (f)
10 the establishment of an advisory body which includes families
11 and community members, (g) the utilization of appropriately
12 qualified staff, (h) an appropriate child-to-staff ratio, (i)
13 appropriate group size, (j) compliance with minimum health and
14 safety standards, (k) appropriate facility size and equipment,
15 (l) a strong family development and support component recognizing
16 the central role of parents in their children's development, (m)
17 developmentally and culturally appropriate curriculum, practices,
18 and assessment, (n) sensitivity to the economic and logistical
19 needs and circumstances of families in the provision of services,
20 (o) integration of children of diverse social and economic
21 characteristics, (p) a sound evaluation component, including at
22 least one objective measure of child performance and progress, (q)
23 continuity with programs in kindergarten and elementary grades,
24 (r) instructional hours that are similar to or less than the
25 instructional hours for kindergarten, (s) well-defined language

1 development and early literacy emphasis, including the involvement
2 of parents in family literacy activities, (t) a plan for ongoing
3 professional development of staff, and (u) inclusion of children
4 with disabilities as defined in the Special Education Act, all as
5 specified by rules and regulations of the department in accordance
6 with sound early childhood educational practice.

7 (3) The department shall make an effort to fund programs
8 widely distributed across the state in both rural and urban areas.

9 (4) A report evaluating the programs shall be made to the
10 State Board of Education and the Legislature by January 1 of each
11 odd-numbered year. Up to five percent of the total appropriation
12 for the Early Childhood Education Grant Program may be reserved
13 by the department for evaluation and technical assistance for the
14 programs.

15 (5) ~~Programs~~ Early childhood education programs, whether
16 established pursuant to this section or section 79-1104, may
17 be approved for purposes of the Tax Equity and Educational
18 Opportunities Support Act, expansion grants, and continuation
19 grants on the submission of a continuation plan demonstrating that
20 the program will ~~continue to~~ meet the requirements of subsection
21 (2) of this section and a proposed operating budget demonstrating
22 that the program will ~~continue to~~ receive resources from other
23 sources equal to or greater than the sum of any grant received
24 pursuant to this section for the prior school year plus any
25 calculated state aid as calculated pursuant to subsection (1) of

1 this section for the prior school year.

2 (6) The State Board of Education may adopt and promulgate
3 rules and regulations to implement the Early Childhood Education
4 Grant Program, except that if there is an endowment agreement
5 in effect, the board of trustees shall recommend any rules and
6 regulations relating specifically to the Early Childhood Education
7 Grant Program with respect to programs for children from birth to
8 age three. It is the intent of the Legislature that the rules and
9 regulations for programs for children from birth to age three be
10 consistent to the greatest extent possible with those established
11 for other prekindergarten programs.

12 Sec. 27. Section 79-1233, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 79-1233 Each educational service unit shall provide
15 access for all school districts within the geographical area
16 served by the unit to telecomputing resources, which shall include
17 the capacity to receive and transmit distance education courses
18 on at least a regional basis beginning on or before August 1,
19 2007, through the installation of necessary equipment at each
20 educational service unit location or through interlocal agreements
21 with other educational service units and shall provide support for
22 training users to meet their specific telecomputing and distance
23 education needs. School districts may annually elect prior to a
24 date determined by the educational service unit not to connect to
25 such telecomputing resources. Each educational service unit shall

1 also develop, with the State Department of Education, a plan which
2 provides for connecting the telecomputing and distance education
3 equipment of such school districts with the telecomputing and
4 distance education equipment of the unit.

5 ~~The leasing or purchase of and planning for telecomputing~~
6 ~~or distance education equipment and software for the educational~~
7 ~~service units shall meet the minimum standards as set by the~~
8 ~~Nebraska Information Technology Commission. The Chief Information~~
9 ~~Officer shall bid for such equipment and software and shall allow~~
10 ~~educational entities to participate in such statewide leasing or~~
11 ~~purchasing contracts.~~ Educational service units may enter into
12 agreements pursuant to the Interlocal Cooperation Act and the
13 Joint Public Agency Act to carry out this section. Such agreements
14 may include, but need not be limited to, provisions requiring
15 any school district having telecomputing or distance education
16 equipment connected to the educational service unit's telecomputing
17 or distance education equipment to pay periodic fees necessary to
18 cover the cost of such usage.

19 Sec. 28. Section 79-1241.01, Revised Statutes Supplement,
20 2009, is amended to read:

21 79-1241.01 To carry out ~~sections 79-1241.03 and 79-1243,~~
22 section 79-1241.03, it is the intent of the Legislature to
23 appropriate for each fiscal year the amount appropriated in
24 the prior year increased by the percentage growth in the fall
25 membership of member districts plus the basic allowable growth

1 rate described in section 79-1025. For purposes of this section,
2 fall membership has the same meaning as in section 79-1003. Fall
3 membership data used to compute growth shall be from the two most
4 recently available fall membership reports.

5 Sec. 29. Section 79-1245, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 79-1245 (1) The Educational Service Unit Coordinating
8 Council is created as of July 1, 2008. On such date the
9 assets and liabilities of the Distance Education Council shall be
10 transferred to the Educational Service Unit Coordinating Council.
11 The council shall be composed of one administrator from each
12 educational service unit. The council shall be funded from ~~one~~
13 two percent of the core services and technology infrastructure
14 funding appropriated pursuant to section 79-1241.03, appropriations
15 by the Legislature for distance education, and fees established for
16 services provided to educational entities.

17 (2) The council is a political subdivision and a public
18 body corporate and politic of this state, exercising public powers
19 separate from the participating educational service units. The
20 council shall have the duties, privileges, immunities, rights,
21 liabilities, and disabilities of a political subdivision and a
22 public body corporate and politic but shall not have taxing power.

23 (3) The council shall have power (a) to sue and be sued,
24 (b) to have a seal and alter the same at will or to dispense
25 with the necessity thereof, (c) to make and execute contracts

1 and other instruments, (d) to receive, hold, and use money and
2 real and personal property, (e) to hire and compensate employees,
3 including certificated employees, (f) to act as a fiscal agent for
4 statewide initiatives being implemented by employees of one or more
5 educational service units, and (g) from time to time, to make,
6 amend, and repeal bylaws, rules, and regulations not inconsistent
7 with sections 79-1245 to 79-1249. Such power shall only be used as
8 necessary or convenient to carry out and effectuate the powers and
9 purposes of the council.

10 Sec. 30. Section 79-1247, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 79-1247 The Educational Service Unit Coordinating Council
13 shall appoint a distance education director and may appoint a
14 council director, both of whom shall hold office at the pleasure of
15 the council. ~~7~~ except that the person serving as the administrator
16 of the Distance Education Council immediately preceding July 1,
17 2008, shall be the initial distance education director under
18 this section. The council director and the distance education
19 director shall receive such salaries as the council determines
20 and shall be reimbursed for their actual expenses incurred in
21 the performance of their duties. The council may contract with
22 individual educational service units for the employment of the
23 council director or the distance education director, except that
24 the supervisory responsibilities for such employees shall remain
25 with the council. ~~as provided in sections 81-1174 to 81-1177.~~

1 The council director and the distance education director
2 shall perform duties as the council directs and shall not be
3 members of the council. The council may also appoint or retain
4 such other persons as it may deem necessary for the performance
5 of its functions and shall prescribe their duties, fix their
6 compensation, and provide for reimbursement of their actual and
7 necessary expenses as provided in sections ~~81-1174 to 81-1177~~
8 within the amounts available in the budget of the council.

9 Sec. 31. Section 79-1248, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 79-1248 The powers and duties of the Educational Service
12 Unit Coordinating Council include, but are not limited to:

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

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

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

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

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

23 (6) Compliance with technical standards as set forth
24 by the Nebraska Information Technology Commission and academic
25 standards as set forth by the State Department of Education related

1 to distance education;

2 (7) Establishment of a system for ~~prioritizing courses if~~
3 ~~the demand for Network Nebraska exceeds the capacity available for~~
4 ~~distance education~~ scheduling courses brokered by the council and
5 for choosing receiving educational entities when the demand for a
6 course exceeds the capacity as determined by either the technology
7 available or the course provider;

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

13 ~~(9)~~ (8) Administration of learning management systems,
14 that are in compliance with any applicable standards of the
15 ~~commission~~ either through the staff of the council or by delegation
16 to an appropriate educational entity, with the funding for such
17 systems provided by participating educational entities; and

18 ~~(10)~~ (9) Coordination with educational service units and
19 postsecondary educational institutions to provide assistance for
20 instructional design for both two-way interactive video distance
21 education courses and the offering of graduate credit courses in
22 distance education.

23 Sec. 32. Section 79-1249, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 79-1249 The Educational Service Unit Coordinating Council

1 shall only provide assistance in brokering or scheduling courses
2 to educational entities that have access to Network Nebraska.
3 All costs to the council associated with assisting private,
4 denominational, or parochial schools and private postsecondary
5 educational institutions shall be paid by such private,
6 denominational, or parochial school or private postsecondary
7 educational institution. Any services of the council may also be
8 offered to other public entities with access to Network Nebraska
9 on a contractual basis. ~~The council shall not approve technology~~
10 ~~purchases for the council in excess of ten thousand dollars~~
11 ~~without approval of the technical panel of the Nebraska Information~~
12 ~~Technology Commission that the purchases are in compliance with any~~
13 ~~applicable commission standards.~~

14 Sec. 33. (1) For purposes of all duties, entitlements,
15 and rights established by law, including special education as
16 provided in section 79-1127, open enrollment students shall be
17 treated as resident students of the open enrollment school
18 district. In determining eligibility for extracurricular activities
19 as defined in section 79-2,126, the open enrollment student shall
20 be treated similarly to other students who transfer into the school
21 from another public, private, denominational, or parochial school.

22 (2) For open enrollment students verified as having a
23 disability as defined in section 79-1118.01, the transportation
24 services set forth in section 79-1129 shall be provided by
25 the open enrollment school district. The State Department of

1 Education shall reimburse each learning community school district
2 for special education programs provided to open enrollment students
3 in accordance with section 79-1142. The resident school district
4 of an open enrollment student shall be exempted from the payment
5 responsibility set forth in section 79-1140. For purposes of the
6 calculation to determine reimbursement pursuant to section 79-1142,
7 the open enrollment school district shall include the adjusted
8 average per pupil cost as defined in section 79-1114 of the open
9 enrollment school district.

10 (3) For purposes of the Tax Equity and Educational
11 Opportunities Support Act, open enrollment students shall not be
12 counted as formula students by the resident school district and
13 shall be counted by the open enrollment school district.

14 Sec. 34. The Board of Regents of the University of
15 Nebraska shall enter into a memorandum of understanding on or
16 before September 1, 2010, with the State Board of Education to
17 adopt a policy to share student data. At a minimum, the policy
18 shall ensure that the exchange of information is conducted in
19 conformance with the requirements of the federal Family Educational
20 Rights and Privacy Act of 1974, as amended, 20 U.S.C. 1232g,
21 and all federal regulations and applicable guidelines adopted in
22 accordance with such act, as such act, regulations, and guidelines
23 existed on January 1, 2010.

24 Sec. 35. The Board of Trustees of the Nebraska State
25 Colleges shall enter into a memorandum of understanding on or

1 before September 1, 2010, with the State Board of Education to
2 adopt a policy to share student data. At a minimum, the policy
3 shall ensure that the exchange of information is conducted in
4 conformance with the requirements of the federal Family Educational
5 Rights and Privacy Act of 1974, as amended, 20 U.S.C. 1232g,
6 and all federal regulations and applicable guidelines adopted in
7 accordance with such act, as such act, regulations, and guidelines
8 existed on January 1, 2010.

9 Sec. 36. Section 85-1511, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 85-1511 In addition to any other powers and duties
12 imposed upon the community college system or its areas, campuses,
13 or boards by the Community College Foundation and Equalization Aid
14 Act, sections 85-917 to 85-966 and 85-1501 to 85-1540, and any
15 other provision of law, each board shall:

16 (1) Have general supervision, control, and operation of
17 each community college within its jurisdiction;

18 (2) Subject to coordination by the Coordinating
19 Commission for Postsecondary Education as prescribed in the
20 Coordinating Commission for Postsecondary Education Act, develop
21 and offer programs of applied technology education, academic
22 transfer programs, academic support courses, and such other
23 programs and courses as the needs of the community college area
24 served may require. The board shall avoid unnecessary duplication
25 of existing programs and courses in meeting the needs of the

1 students and the community college area;

2 (3) Employ, for a period to be fixed by the board,
3 executive officers, members of the faculty, and such other
4 administrative officers and employees as may be necessary or
5 appropriate and fix their salaries and duties;

6 (4) Subject to coordination by the Coordinating
7 Commission for Postsecondary Education as prescribed in the
8 Coordinating Commission for Postsecondary Education Act, construct,
9 lease, purchase, purchase on contract, operate, equip, and maintain
10 facilities;

11 (5) Contract for services connected with the operation of
12 the community college area as needs and interest demand;

13 (6) Cause an examination and comprehensive audit of
14 the books, accounts, records, and affairs, including full-time
15 equivalent student enrollment totals, full-time equivalent totals,
16 and reimbursable educational unit totals as defined in section
17 85-1503, to be made annually covering the most recently completed
18 fiscal year. The audit of each area shall include the full-time
19 equivalent student enrollment totals, full-time equivalent totals,
20 and reimbursable educational unit totals for the three most
21 recently completed fiscal years which shall be used for calculation
22 of aid to the community college areas as prescribed in the
23 Community College Foundation and Equalization Aid Act. The audit
24 shall also include the county-certified property valuations for the
25 community college area for the three most recently completed fiscal

1 years which shall be used for calculation of aid to such community
2 college areas. Such examination and audit of the books, accounts,
3 records, and affairs shall be completed and filed with the Auditor
4 of Public Accounts and the Department of Administrative Services
5 on or before October 15 of each year. The examination and audit
6 of the full-time equivalent student enrollment totals, full-time
7 equivalent totals, and reimbursable educational unit totals shall
8 be completed and filed with the Auditor of Public Accounts and the
9 Department of Administrative Services on or before August 15 of
10 each year;

11 (7) Establish fees and charges for the facilities
12 authorized by sections 85-1501 to 85-1540. Each board may enter
13 into agreements with owners of facilities to be used for housing
14 regarding the management, operation, and government of such
15 facilities and may employ necessary employees to govern, manage,
16 and operate such facilities;

17 (8) Receive such gifts, grants, conveyances, and bequests
18 of real and personal property from public or private sources as
19 may be made from time to time, in trust or otherwise, whenever
20 the terms and conditions thereof will aid in carrying out the
21 community college programs as specified by law. Each board may
22 sell, lease, exchange, invest, or expend such gifts, grants,
23 conveyances, and bequests or the proceeds, rents, profits, and
24 income therefrom according to the terms and conditions thereof and
25 adopt and promulgate rules and regulations governing the receipt

1 and expenditure of such proceeds, rents, profits, and income,
2 except that acceptance of such gifts, grants, or conveyances shall
3 not be conditioned on matching state or local funds;

4 (9) Prescribe the courses of study for any community
5 college under its control and publish such catalogs and bulletins
6 as may be necessary;

7 (10) Grant to every student upon graduation or completion
8 of a course of study a suitable diploma, associate degree, or
9 certificate;

10 (11) Adopt and promulgate such rules and regulations
11 and perform all other acts as the board may deem necessary
12 or appropriate to the administration of the community college
13 area. Such rules and regulations shall include, but not be
14 limited to, rules and regulations relating to facilities, housing,
15 scholarships, discipline, and pedestrian and vehicular traffic on
16 property owned, operated, or maintained by the community college
17 area;

18 (12) Employ, for a period to be fixed by the board, an
19 executive officer for the community college area and, by written
20 order filed in its office, delegate to such executive officer
21 any of the powers and duties vested in or imposed upon it by
22 sections 85-1501 to 85-1540. Such delegated powers and duties may
23 be exercised in the name of the board;

24 (13) Acquire real property by eminent domain pursuant to
25 sections 76-701 to 76-724;

1 (14) Acquire real and personal property and sell, convey,
2 or lease such property whenever the community college area will
3 be benefited thereby. The sale, conveyance, or lease of any real
4 estate owned by a community college area shall be effective only
5 when authorized by an affirmative vote of at least two-thirds of
6 all the members of the board;

7 (15) Enter into agreements for services, facilities, or
8 equipment and for the presentation of courses for students when
9 such agreements are deemed to be in the best interests of the
10 education of the students involved;

11 (16) Transfer tribally controlled community college state
12 aid amounts to a tribally controlled community college located
13 within its community college area;

14 (17) Invest, after proper consideration of the
15 requirements for the availability of money, funds of the community
16 college in securities the nature of which individuals of prudence,
17 discretion, and intelligence acquire or retain in dealing with the
18 property of another;

19 (18) Establish tuition rates for courses of instruction
20 offered by each community college within its community college
21 area. Separate tuition rates shall be established for students who
22 are nonresidents of the State of Nebraska;

23 (19) Establish a fiscal year for the community college
24 area which conforms to the fiscal year of the state; and

25 (20) Enter into a memorandum of understanding with the

1 State Board of Education to adopt a policy to share student
2 data. At a minimum, the policy shall ensure that the exchange of
3 information is conducted in conformance with the requirements of
4 the federal Family Educational Rights and Privacy Act of 1974,
5 as amended, 20 U.S.C. 1232g, and all federal regulations and
6 applicable guidelines adopted in accordance with such act, as such
7 act, regulations, and guidelines existed on January 1, 2010; and

8 ~~(20)~~ (21) Exercise any other powers, duties, and
9 responsibilities necessary to carry out sections 85-1501 to
10 85-1540.

11 Sec. 37. Section 86-501, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 86-501 Sections 86-501 to 86-530 and section 42 of this
14 act shall be known and may be cited as the Information Technology
15 Infrastructure Act.

16 Sec. 38. Section 86-505, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 86-505 Enterprise means ~~the entirety of all~~ one or
19 more departments, offices, boards, bureaus, commissions, or
20 institutions ~~in~~ of the state for which money is to be appropriated
21 for communications or data processing services, equipment, or
22 facilities, including all executive, legislative, and judicial
23 departments, the Nebraska state colleges, the University of
24 Nebraska, and all other state institutions and entities.

25 Sec. 39. Section 86-506, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 86-506 Enterprise project means an endeavor undertaken
3 by an enterprise over a fixed period of time using information
4 technology, which would have a significant effect on a core
5 business function or which affects multiple government programs,
6 agencies, or institutions. Enterprise project includes all aspects
7 of planning, design, implementation, project management, and
8 training relating to the endeavor.

9 Sec. 40. Section 86-516, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 86-516 The commission shall:

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

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

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

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

25 (5) Adopt guidelines regarding project planning and

1 management and administrative and technical review procedures
2 involving state-owned or state-supported technology and
3 infrastructure. Governmental entities, state agencies, and
4 noneducation political subdivisions shall submit all projects which
5 use any combination of general funds, federal funds, or cash funds
6 for information technology purposes to the process established
7 by sections 86-512 to 86-524. The commission may adopt policies
8 that establish the format and minimum requirements for project
9 submissions. The commission may monitor the progress of any such
10 project and may require progress reports;

11 (6) Adopt minimum technical standards, guidelines, and
12 architectures upon recommendation by the technical panel. Such
13 standards and guidelines shall not unnecessarily restrict the use
14 of new technologies or prevent commercial competition, including
15 competition with Network Nebraska;

16 (7) Establish ad hoc technical advisory groups to study
17 and make recommendations on specific topics, including workgroups
18 to establish, coordinate, and prioritize needs for education,
19 local communities, intergovernmental data communications, and state
20 agencies;

21 (8) By November 15 of each even-numbered year, make
22 recommendations on technology investments to the Governor and the
23 Legislature, including a prioritized list of projects, reviewed by
24 the technical panel pursuant to section 86-521;

25 (9) Approve grants from the Community Technology Fund and

1 Government Technology Collaboration Fund;

2 (10) Adopt schedules and procedures for reporting needs,
3 priorities, and recommended projects;

4 (11) Assist the Chief Information Officer in developing
5 and maintaining Network Nebraska pursuant to section 86-5,100; and

6 (12) Determine the format that state agencies, boards,
7 and commissions shall use to report their information technology
8 plans under section 86-524.01. The commission shall include an
9 analysis of such plans in the statewide technology plan.

10 Sec. 41. Section 86-520, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 86-520 The Chief Information Officer shall:

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

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

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

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

25 (5) Implement a strategic, tactical, and project planning

1 process for noneducation state government information technology
2 that is linked to the budget process;

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

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

10 (8) Recommend to the Governor and Legislature methods for
11 improving the organization and management of data by noneducation
12 agencies to achieve the goals of making information sharable and
13 reusable, eliminating redundancy of data and programs, improving
14 the quality and usefulness of data, and improving access to data,
15 and implement such recommendations as the Governor or Legislature
16 may direct;

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

19 (10) Establish and maintain Network Nebraska pursuant to
20 section 86-5,100;

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

23 ~~(12)~~ (11) Apply in aggregate for reimbursements from
24 the federal Universal Service Fund pursuant to section 254 of
25 the Telecommunications Act of 1996, 47 U.S.C. 254, as such

1 section existed on January 1, 2006, on behalf of school districts
2 requesting to be included in such aggregated application;

3 ~~(13)~~ (12) Administer such funds as may be appropriated to
4 the Chief Information Officer by the Legislature;

5 ~~(14)~~ (13) Monitor the status of information technology
6 projects that are enterprise projects;

7 ~~(15)~~ (14) Collect information from state agencies,
8 boards, and commissions as provided in section 86-524.01; and

9 ~~(16)~~ (15) Complete other tasks as assigned by the
10 Governor.

11 Sec. 42. Information technology purchases made with
12 state funds or local tax receipts by education-related political
13 subdivisions shall meet or exceed any applicable technical
14 standards established by the commission. The Chief Information
15 Officer may bid for such equipment and allow education-related
16 political subdivisions to participate in leasing or purchasing
17 contracts. An education-related political subdivision shall provide
18 notice in writing, if required by guidelines established by the
19 University of Nebraska and the Chief Information Officer for
20 participation in Network Nebraska, to the distance education
21 director of the Educational Service Unit Coordinating Council, the
22 University of Nebraska, and the Chief Information Officer prior to
23 the use of any new or additional equipment that will impact the use
24 of Network Nebraska by such education-related political subdivision
25 or other education-related political subdivisions.

1 Sec. 43. Section 86-5,100, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 86-5,100 The Chief Information Officer, in partnership
4 with the University of Nebraska, shall develop and maintain a
5 statewide, multipurpose, high capacity, scalable telecommunications
6 network to be called Network Nebraska. The network shall consist of
7 contractual arrangements with providers to meet the demand of state
8 agencies, local governments, and educational entities as defined in
9 section 79-1201.01. Such network shall provide access to a reliable
10 and affordable infrastructure capable of carrying a spectrum of
11 services and applications, including distance education, across
12 the state. The Chief Information Officer shall provide access to
13 each school district, each educational service unit, each community
14 college, each state college, and the University of Nebraska at the
15 earliest feasible date and no later than July 1, 2012. Access may
16 be provided through educational service units or other aggregation
17 points. Participation in Network Nebraska shall not be required
18 for any educational entity. The Chief Information Officer shall
19 aggregate demand for those state agencies and educational entities
20 choosing to participate and shall reduce costs for participants
21 whenever feasible. The Chief Information Officer shall establish
22 a cost structure based on actual costs, including necessary plus
23 administrative expenses but not including administrative travel or
24 conference expenses, and shall charge participants according to
25 such cost structure. The Chief Information Officer shall annually

1 provide a detailed report of such costs to each participant and to
2 the Legislative Fiscal Analyst.

3 Sec. 44. The Revisor of Statutes shall assign section 7
4 of this act within Chapter 79, article 7, shall assign section 33
5 of this act within Chapter 79, article 21, shall assign section 34
6 of this act within Chapter 85, article 1, and shall assign section
7 35 of this act within Chapter 85, article 3.

8 Sec. 45. Sections 1, 2, 3, 4, 6, 12, 13, 14, 15, 16,
9 17, 18, 23, 25, 26, 33, and 47 of this act become operative three
10 calendar months after the adjournment of this legislative session.
11 The other sections of this act become operative on their effective
12 date.

13 Sec. 46. Original sections 79-1233, 79-1245, 79-1247,
14 79-1248, 79-1249, 85-1511, 86-501, 86-505, 86-506, 86-516, 86-520,
15 and 86-5,100, Reissue Revised Statutes of Nebraska, sections
16 79-318, 79-8,137.01, 79-8,137.02, 79-8,137.03, 79-8,137.04,
17 79-1022, 79-1026.01, 79-1027, 79-1031.01, and 79-1241.01, Revised
18 Statutes Supplement, 2009, and section 79-1023, Revised Statutes
19 Supplement, 2009, as amended by section 11, Legislative Bill 5,
20 One Hundred First Legislature, First Special Session, 2009, are
21 repealed.

22 Sec. 47. Original sections 79-201, 79-215, 79-2,136,
23 79-4,108, 79-1003.01, 79-1007.04, 79-1007.05, 79-1013, 79-1030, and
24 79-1103, Reissue Revised Statutes of Nebraska, sections 13-509,
25 79-1014, and 79-10,110 Revised Statutes Supplement, 2009, and

1 sections 79-1003 and 79-1007.23, Revised Statutes Supplement, 2009,
2 as amended by sections 3 and 9, respectively, Legislative Bill 5,
3 One Hundred First Legislature, First Special Session, 2009, are
4 repealed.

5 Sec. 48. The following sections are outright repealed:
6 Sections 79-1241.02, 79-1243, and 79-1331, Reissue Revised Statutes
7 of Nebraska.

8 Sec. 49. Since an emergency exists, this act takes effect
9 when passed and approved according to law.