

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1105**

Introduced by Adams, 24.

Read first time January 19, 2012

Committee: Education

A BILL

1 FOR AN ACT relating to education; to amend sections 79-241,  
2 79-1104.02, 79-1118.01, and 79-1336, Reissue Revised  
3 Statutes of Nebraska, sections 79-234, 79-237,  
4 79-1007.20, 79-1204, and 79-2118, Revised Statutes  
5 Cumulative Supplement, 2010, and sections 79-1003,  
6 79-1028.01, and 79-2104.02, Revised Statutes Supplement,  
7 2011; to change and eliminate provisions relating to the  
8 enrollment option program, the Tax Equity and Educational  
9 Opportunities Support Act, the Educational Service Units  
10 Act, and distance education equipment reimbursement; to  
11 redefine a term pursuant to the Special Education Act; to  
12 eliminate a fund; to harmonize provisions; to repeal the  
13 original sections; to outright repeal section 79-756,  
14 Reissue Revised Statutes of Nebraska; and to declare an  
15 emergency.

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

1           Section 1. Section 79-234, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3           79-234 (1) An enrollment option program is hereby  
4 established to enable any kindergarten through twelfth grade Nebraska  
5 student to attend a school in a Nebraska public school district in  
6 which the student does not reside subject to the limitations  
7 prescribed in section 79-238. The option shall be available only once  
8 to each student prior to graduation unless (a) the student relocates  
9 to a different resident school district, (b) the option school  
10 district merges with another district, (c) the option school district  
11 is a Class I district, (d) the option would allow the student to  
12 continue current enrollment in a school district, or (e) the option  
13 would allow the student to enroll in a school district in which the  
14 student was previously enrolled as a resident student. ~~In the case of  
15 an event described in subdivision (1)(a) or (b) of this section, the  
16 student's parent or guardian shall submit an application to the new  
17 option school district within thirty days after the date of  
18 relocation or the effective date of the merger. This subsection does  
19 Sections 79-232 to 79-246 do not relieve a parent or guardian from  
20 the compulsory attendance requirements in section 79-201. ~~during the  
21 pendency of such application or approval.~~~~

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

1           Sec. 2. Section 79-237, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3           79-237 (1) For a student to begin attendance as an option  
4 student in an option school district which is not in a learning  
5 community in which the student resides, the student's parent or legal  
6 guardian shall submit an application to the school board of the  
7 option school district between September 1 and March 15 for  
8 attendance during the following and subsequent school years.  
9 ~~Applications—Except as provided in subsection (2) of this section,~~  
10 applications submitted after March 15 shall contain a release  
11 approval from the resident school district on the application form  
12 prescribed and furnished by the State Department of Education  
13 pursuant to subsection ~~(7)–(8)~~ of this section. A district may not  
14 accept or approve any applications submitted after such date without  
15 such a release approval. The option school district shall provide the  
16 resident school district with the name of the applicant on or before  
17 April 1 or, in the case of an application submitted after March 15,  
18 within sixty days after submission. The option school district shall  
19 notify, in writing, the parent or legal guardian of the student, and  
20 the resident school district, ~~and the State Department of Education~~  
21 whether the application is accepted or rejected on or before April 1  
22 or, in the case of an application submitted after March 15, within  
23 sixty days after submission.

24           (2) A student who relocates to a different resident  
25 school district after March 15 or whose option school district merges

1 with another district effective after March 15 may submit an  
2 application to the school board of an option school district for  
3 attendance during the immediately following and subsequent school  
4 years. Such application does not require the release approval of the  
5 resident school district. The option school district shall accept or  
6 reject such application within sixty days as provided in subsection  
7 (1) of this section.

8           ~~(2)~~(3) For a student who resides in a learning community  
9 to begin attendance in an option school district which is a member of  
10 such learning community, the student's parent or legal guardian shall  
11 submit an application to the school board of the option school  
12 district (a) for any learning community established prior to February  
13 13, 2009, between February 13, 2009, and April 1, 2009, or (b) for  
14 any learning community established thereafter, between September 1  
15 and March 15. Applications submitted after such deadlines shall be  
16 accompanied by a written release from the resident school district.  
17 Students who reside in a learning community shall only begin  
18 attendance in an option school district which is a member of such  
19 learning community prior to the end of the first full school year for  
20 which the option school district is a member of such learning  
21 community. The option school district shall provide the resident  
22 school district with the name of the applicant within five days after  
23 the applicable deadline. The option school district shall notify, in  
24 writing, the parent or legal guardian of the student, and the  
25 resident school district, ~~and the State Department of Education~~

1 whether the application is accepted or rejected on or before April 1.  
2 ~~10 for applications submitted for school year 2009-10 and on or~~  
3 ~~before April 1 for applications submitted for any school year~~  
4 thereafter.—A parent or guardian may provide information on the  
5 application regarding the applicant's potential qualification for  
6 free or reduced-price lunches. Any such information provided shall be  
7 subject to verification and shall only be used for the purposes of  
8 subsection (4) of section 79-238. Nothing in this subsection requires  
9 a parent or guardian to provide such information. Determinations  
10 about an applicant's qualification for free or reduced-price lunches  
11 for purposes of subsection (4) of section 79-238 shall be based on  
12 any verified information provided on the application. If no such  
13 information is provided, the student shall be presumed not to qualify  
14 for free or reduced-price lunches for the purposes of subsection (4)  
15 of section 79-238.

16 ~~(3)~~ (4) Applications for students who do not actually  
17 attend the option school district may be withdrawn in good standing  
18 upon mutual agreement by both the resident and option school  
19 districts.

20 ~~(4)~~ (5) No option student shall attend an option school  
21 district for less than one school year unless the student relocates  
22 to a different resident school district, completes requirements for  
23 graduation prior to the end of his or her senior year, transfers to a  
24 private or parochial school, or upon mutual agreement of the resident  
25 and option school districts cancels the enrollment option and returns

1 to the resident school district.

2 ~~(5)~~(6) Except as provided in subsection ~~(4)~~(5) of this  
3 section, the option student shall attend the option school district  
4 until graduation unless the student relocates in a different resident  
5 school district, transfers to a private or parochial school, or  
6 chooses to return to the resident school district.

7 ~~(6)~~(7) In each case of cancellation pursuant to  
8 subsections ~~(4)~~ and ~~(5)~~ and (6) of this section, the student's parent  
9 or legal guardian shall provide written notification to the school  
10 board of the option school district, and the resident school  
11 district, ~~and the department~~ on forms prescribed and furnished by the  
12 department under subsection ~~(7)~~(8) of this section in advance of  
13 such cancellation.

14 ~~(7)~~(8) The application and cancellation forms shall be  
15 prescribed and furnished by the State Department of Education.

16 ~~(8)~~(9) An option student who subsequently chooses to  
17 attend a private or parochial school shall be automatically accepted  
18 to return to either the resident school district or option school  
19 district upon the completion of the grade levels offered at the  
20 private or parochial school. If such student chooses to return to the  
21 option school district, the student's parent or legal guardian shall  
22 submit another application to the school board of the option school  
23 district which shall be automatically accepted, and the deadlines  
24 prescribed in this section shall be waived.

25 Sec. 3. Section 79-241, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           79-241 (1) Except as provided in subsection (2) of this  
3 section, section 79-611 does not apply to the transportation of an  
4 option student. The parent or legal guardian of the option student  
5 shall be responsible for required transportation. A school district  
6 may, upon mutual agreement with the parent or legal guardian of an  
7 option student, provide transportation to the option student on the  
8 same basis as provided for resident students. The school district may  
9 charge the parents of each option student transported a fee  
10 sufficient to recover the additional costs of such transportation.

11           (2) Parents or guardians of option students who qualify  
12 for free lunches shall be eligible for transportation reimbursement  
13 as described in section 79-611, except that they shall be reimbursed  
14 at the rate of one hundred forty-two and one-half percent of the  
15 mandatorily established mileage rate provided in section 81-1176 for  
16 each mile actually and necessarily traveled on each day of attendance  
17 by which the distance traveled one way from the residence of such  
18 student to the schoolhouse exceeds three miles. ~~The State Department~~  
19 ~~of Education shall reimburse the option school district for~~  
20 ~~transportation expenses paid to the parents of qualifying option~~  
21 ~~students or incurred in actual transportation of qualifying option~~  
22 ~~students. If a parent or guardian of a qualifying option student has~~  
23 ~~an agreement with the option school district for the provision of~~  
24 ~~transportation, the department shall reimburse the option school~~  
25 ~~district only if option students who are not eligible for~~

1 ~~transportation reimbursement are charged fees for transportation, and~~  
2 ~~reimbursement shall be only for the actual miles traveled one way~~  
3 ~~beyond the normal transportation route at the rate described in this~~  
4 ~~subsection. Reimbursement shall be made on or before June 30 for~~  
5 ~~expenses incurred during the current school year. If sufficient funds~~  
6 ~~are not appropriated to fully fund the provisions of this section,~~  
7 ~~the department shall make a proportionate reduction in each payment~~  
8 ~~made pursuant to this section.~~

9           (3) For option students verified as having a disability  
10 as defined in section 79-1118.01, the transportation services set  
11 forth in section 79-1129 shall be provided by the resident school  
12 district. The department shall reimburse the resident school district  
13 for the cost of transportation in accordance with section 79-1144.

14           Sec. 4. Section 79-1003, Revised Statutes Supplement,  
15 2011, is amended to read:

16           79-1003 For purposes of the Tax Equity and Educational  
17 Opportunities Support Act:

18           (1) Adjusted general fund operating expenditures means  
19 (a) for school fiscal years 2010-11 through 2012-13, the difference  
20 of the general fund operating expenditures as calculated pursuant to  
21 subdivision (22) of this section increased by, or for aid calculated  
22 for school fiscal year 2010-11 multiplied by, the cost growth factor  
23 calculated pursuant to section 79-1007.10, minus the transportation  
24 allowance, special receipts allowance, poverty allowance, limited  
25 English proficiency allowance, distance education and

1 telecommunications allowance, elementary site allowance, elementary  
2 class size allowance, summer school allowance, instructional time  
3 allowance, teacher education allowance, and focus school and program  
4 allowance, and (b) for school fiscal year 2013-14 and each school  
5 fiscal year thereafter, the difference of the general fund operating  
6 expenditures as calculated pursuant to subdivision (22) of this  
7 section increased by the cost growth factor calculated pursuant to  
8 section 79-1007.10, minus the transportation allowance, special  
9 receipts allowance, poverty allowance, limited English proficiency  
10 allowance, distance education and telecommunications allowance,  
11 elementary site allowance, summer school allowance, instructional  
12 time allowance, teacher education allowance, and focus school and  
13 program allowance;

14 (2) Adjusted valuation means the assessed valuation of  
15 taxable property of each local system in the state, adjusted pursuant  
16 to the adjustment factors described in section 79-1016. Adjusted  
17 valuation means the adjusted valuation for the property tax year  
18 ending during the school fiscal year immediately preceding the school  
19 fiscal year in which the aid based upon that value is to be paid. For  
20 purposes of determining the local effort rate yield pursuant to  
21 section 79-1015.01, adjusted valuation does not include the value of  
22 any property which a court, by a final judgment from which no appeal  
23 is taken, has declared to be nontaxable or exempt from taxation;

24 (3) Allocated income tax funds means the amount of  
25 assistance paid to a local system pursuant to section 79-1005.01 as

1 adjusted by the minimum levy adjustment pursuant to section  
2 79-1008.02;

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

8 (5) Base fiscal year means the first school fiscal year  
9 following the school fiscal year in which the reorganization or  
10 unification occurred;

11 (6) Board means the school board of each school district;

12 (7) Categorical funds means funds limited to a specific  
13 purpose by federal or state law, including, but not limited to, Title  
14 I funds, Title VI funds, federal vocational education funds, federal  
15 school lunch funds, Indian education funds, Head Start funds, and  
16 funds from the Education Innovation Fund. Categorical funds does not  
17 include funds received pursuant to section 79-1028.02 or 79-1028.04;

18 (8) Consolidate means to voluntarily reduce the number of  
19 school districts providing education to a grade group and does not  
20 include dissolution pursuant to section 79-498;

21 (9) Converted contract means an expired contract that was  
22 in effect for at least fifteen school years beginning prior to school  
23 year 2012-13 for the education of students in a nonresident district  
24 in exchange for tuition from the resident district when the  
25 expiration of such contract results in the nonresident district

1 educating students, who would have been covered by the contract if  
2 the contract were still in effect, as option students pursuant to the  
3 enrollment option program established in section 79-234;

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

11 (11) Department means the State Department of Education;

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

16 (13) Ensuing school fiscal year means the school fiscal  
17 year following the current school fiscal year;

18 (14) Equalization aid means the amount of assistance  
19 calculated to be paid to a local system pursuant to sections  
20 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022,  
21 79-1022.02, 79-1028.02, and 79-1028.04;

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

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

3                   (17) Formula students means:

4                   (a) For state aid certified pursuant to section 79-1022,  
5 the sum of the product of fall membership from the school fiscal year  
6 immediately preceding the school fiscal year in which the aid is to  
7 be paid multiplied by the average ratio of average daily membership  
8 to fall membership for the second school fiscal year immediately  
9 preceding the school fiscal year in which the aid is to be paid and  
10 the prior two school fiscal years plus sixty percent of the qualified  
11 early childhood education fall membership plus tuitioned students  
12 from the school fiscal year immediately preceding the school fiscal  
13 year in which aid is to be paid minus the product of the number of  
14 students enrolled in kindergarten that is not full-day kindergarten  
15 from the fall membership multiplied by 0.5; and

16                   (b) For the final calculation of state aid pursuant to  
17 section 79-1065, the sum of average daily membership plus sixty  
18 percent of the qualified early childhood education average daily  
19 membership plus tuitioned students minus the product of the number of  
20 students enrolled in kindergarten that is not full-day kindergarten  
21 from the average daily membership multiplied by 0.5 from the school  
22 fiscal year immediately preceding the school fiscal year in which aid  
23 was paid;

24                   (18) Free lunch and free milk student means a student who  
25 qualified for free lunches or free milk from the most recent data

1 available on November 1 of the school fiscal year immediately  
2 preceding the school fiscal year in which aid is to be paid;

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

5 (20) General fund budget of expenditures means the total  
6 budget of disbursements and transfers for general fund purposes as  
7 certified in the budget statement adopted pursuant to the Nebraska  
8 Budget Act, except that for purposes of the limitation imposed in  
9 section 79-1023 and the calculation pursuant to subdivision (2) of  
10 section 79-1027.01, the general fund budget of expenditures does not  
11 include any special grant funds, exclusive of local matching funds,  
12 received by a district;

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

15 (22) General fund operating expenditures means:

16 (a) For state aid calculated for school fiscal years  
17 2010-11 and 2011-12, as reported on the annual financial report for  
18 the second school fiscal year immediately preceding the school fiscal  
19 year in which aid is to be paid, the total general fund expenditures  
20 minus (i) the amount of all receipts to the general fund, to the  
21 extent that such receipts are not included in local system formula  
22 resources, from early childhood education tuition, summer school  
23 tuition, educational entities as defined in section 79-1201.01 for  
24 providing distance education courses through the Educational Service  
25 Unit Coordinating Council to such educational entities, private

1 foundations, individuals, associations, charitable organizations, the  
2 textbook loan program authorized by section 79-734, federal impact  
3 aid, and levy override elections pursuant to section 77-3444, (ii)  
4 the amount of expenditures for categorical funds, tuition paid,  
5 transportation fees paid to other districts, adult education,  
6 community services, redemption of the principal portion of general  
7 fund debt service, retirement incentive plans authorized by section  
8 79-855, and staff development assistance authorized by section  
9 79-856, (iii) the amount of any transfers from the general fund to  
10 any bond fund and transfers from other funds into the general fund,  
11 (iv) any legal expenses in excess of fifteen-hundredths of one  
12 percent of the formula need for the school fiscal year in which the  
13 expenses occurred, (v) expenditures to pay for sums agreed to be paid  
14 by a school district to certificated employees in exchange for a  
15 voluntary termination occurring prior to July 1, 2009, and (vi)(A)  
16 expenditures in school fiscal ~~years 2009-10 through 2013-14~~ year  
17 2009-10 to pay for employer contributions pursuant to subsection (2)  
18 of section 79-958 to the School Retirement System of the State of  
19 Nebraska to the extent that such expenditures exceed the employer  
20 contributions under such subsection that would have been made at a  
21 contribution rate of seven and thirty-five hundredths percent or (B)  
22 expenditures in school fiscal ~~years 2009-10 through 2013-14~~ year  
23 2009-10 to pay for school district contributions pursuant to  
24 subdivision (1)(c)(i) of section 79-9,113 to the retirement system  
25 established pursuant to the Class V School Employees Retirement Act

1 to the extent that such expenditures exceed the school district  
2 contributions under such subdivision that would have been made at a  
3 contribution rate of seven and thirty-seven hundredths percent; ~~and~~

4 (b) For state aid calculated for school fiscal ~~years~~  
5 ~~2012-13 and each school fiscal year thereafter, year 2012-13,~~ as  
6 reported on the annual financial report for the second school fiscal  
7 year immediately preceding the school fiscal year in which aid is to  
8 be paid, the total general fund expenditures minus (i) the amount of  
9 all receipts to the general fund, to the extent that such receipts  
10 are not included in local system formula resources, from early  
11 childhood education tuition, summer school tuition, educational  
12 entities as defined in section 79-1201.01 for providing distance  
13 education courses through the Educational Service Unit Coordinating  
14 Council to such educational entities, private foundations,  
15 individuals, associations, charitable organizations, the textbook  
16 loan program authorized by section 79-734, federal impact aid, and  
17 levy override elections pursuant to section 77-3444, (ii) the amount  
18 of expenditures for categorical funds, tuition paid, transportation  
19 fees paid to other districts, adult education, community services,  
20 redemption of the principal portion of general fund debt service,  
21 retirement incentive plans authorized by section 79-855, and staff  
22 development assistance authorized by section 79-856, (iii) the amount  
23 of any transfers from the general fund to any bond fund and transfers  
24 from other funds into the general fund, (iv) any legal expenses in  
25 excess of fifteen-hundredths of one percent of the formula need for

1 the school fiscal year in which the expenses occurred, (v)  
2 expenditures to pay for sums agreed to be paid by a school district  
3 to certificated employees in exchange for a voluntary termination  
4 occurring prior to July 1, 2009, or occurring on or after the last  
5 day of the 2010-11 school year and prior to the first day of the  
6 2013-14 school year, (vi)(A) expenditures ~~in school fiscal years~~  
7 ~~2009-10 through 2016-17~~ to pay for employer contributions pursuant to  
8 subsection (2) of section 79-958 to the School Employees Retirement  
9 System of the State of Nebraska to the extent that such expenditures  
10 exceed the employer contributions under such subsection that would  
11 have been made at a contribution rate of seven and thirty-five  
12 hundredths percent or (B) expenditures ~~in school fiscal years 2009-10~~  
13 ~~through 2016-17~~ to pay for school district contributions pursuant to  
14 subdivision (1)(c)(i) of section 79-9,113 to the retirement system  
15 established pursuant to the Class V School Employees Retirement Act  
16 to the extent that such expenditures exceed the school district  
17 contributions under such subdivision that would have been made at a  
18 contribution rate of seven and thirty-seven hundredths percent, and  
19 (vii) any amounts paid by the district for lobbyist fees and expenses  
20 reported to the Clerk of the Legislature pursuant to section 49-1483;  
21 and -

22 (c) For state aid calculated for school fiscal years  
23 2013-14 and each school fiscal year thereafter, as reported on the  
24 annual financial report for the second school fiscal year immediately  
25 preceding the school fiscal year in which aid is to be paid, the

1 total general fund expenditures minus (i) the amount of all receipts  
2 to the general fund, to the extent that such receipts are not  
3 included in local system formula resources, from early childhood  
4 education tuition, summer school tuition, educational entities as  
5 defined in section 79-1201.01 for providing distance education  
6 courses through the Educational Service Unit Coordinating Council to  
7 such educational entities, private foundations, individuals,  
8 associations, charitable organizations, the textbook loan program  
9 authorized by section 79-734, federal impact aid, and levy override  
10 elections pursuant to section 77-3444, (ii) the amount of  
11 expenditures for categorical funds, adult education, community  
12 services, redemption of the principal portion of general fund debt  
13 service, retirement incentive plans authorized by section 79-855, and  
14 staff development assistance authorized by section 79-856, (iii) the  
15 amount of any transfers from the general fund to any bond fund and  
16 transfers from other funds into the general fund, (iv) any legal  
17 expenses in excess of fifteen-hundredths of one percent of the  
18 formula need for the school fiscal year in which the expenses  
19 occurred, (v) expenditures to pay for sums agreed to be paid by a  
20 school district to certificated employees in exchange for a voluntary  
21 termination occurring prior to July 1, 2009, or occurring on or after  
22 the last day of the 2010-11 school year and prior to the first day of  
23 the 2013-14 school year, (vi)(A) expenditures in school fiscal years  
24 2011-12 through 2016-17 to pay for employer contributions pursuant to  
25 subsection (2) of section 79-958 to the School Employees Retirement

1 System of the State of Nebraska to the extent that such expenditures  
2 exceed the employer contributions under such subsection that would  
3 have been made at a contribution rate of seven and thirty-five  
4 hundredths percent or (B) expenditures in school fiscal years 2011-12  
5 through 2016-17 to pay for school district contributions pursuant to  
6 subdivision (1)(c)(i) of section 79-9,113 to the retirement system  
7 established pursuant to the Class V School Employees Retirement Act  
8 to the extent that such expenditures exceed the school district  
9 contributions under such subdivision that would have been made at a  
10 contribution rate of seven and thirty-seven hundredths percent, and  
11 (vii) any amounts paid by the district for lobbyist fees and expenses  
12 reported to the Clerk of the Legislature pursuant to section 49-1483.

13           For purposes of this subdivision (22) of this section,  
14 receipts from levy override elections shall equal ninety-nine percent  
15 of the difference of the total general fund levy minus a levy of one  
16 dollar and five cents per one hundred dollars of taxable valuation  
17 multiplied by the assessed valuation for school districts that have  
18 voted pursuant to section 77-3444 to override the maximum levy  
19 provided pursuant to section 77-3442;

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

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

1                   (25) Income tax receipts means the amount of income tax  
2 collected pursuant to the Nebraska Revenue Act of 1967 less all  
3 nonrefundable credits earned and refunds made;

4                   (26) Limited English proficiency students means the  
5 number of students with limited English proficiency in a district  
6 from the most recent data available on November 1 of the school  
7 fiscal year preceding the school fiscal year in which aid is to be  
8 paid plus the difference of such students with limited English  
9 proficiency minus the average number of limited English proficiency  
10 students for such district, prior to such addition, for the three  
11 immediately preceding school fiscal years if such difference is  
12 greater than zero;

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

23                   (28) Low-income child means a child under nineteen years  
24 of age living in a household having an annual adjusted gross income  
25 for the second calendar year preceding the beginning of the school

1 fiscal year for which aid is being calculated equal to or less than  
2 the 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 (29) 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 nineteen  
9 years of age residing in the district as derived from income tax  
10 information;

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

17 (31) Poverty students means the number of low-income  
18 students or the number of students who are free lunch and free milk  
19 students in a district plus the difference of the number of low-  
20 income students or the number of students who are free lunch and free  
21 milk students in a district, whichever is greater, minus the average  
22 number of poverty students for such district, prior to such addition,  
23 for the three immediately preceding school fiscal years if such  
24 difference is greater than zero;

25 (32) Qualified early childhood education average daily

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

15 (33) Qualified early childhood education fall membership  
16 means the product of membership on the last Friday in September 2006  
17 and each year thereafter of students who will be eligible to attend  
18 kindergarten the following school year and are enrolled in an early  
19 childhood education program approved by the department pursuant to  
20 section 79-1103 for such school district for such school year  
21 multiplied by the ratio of the planned instructional hours of the  
22 program divided by one thousand thirty-two if: (a) The program is  
23 receiving a grant pursuant to such section for the third year; (b)  
24 the program has already received grants pursuant to such section for  
25 three years; or (c) the program has been approved pursuant to

1 subsection (5) of section 79-1103 for such school year and the two  
2 preceding school years, including any such students in portions of  
3 any of such programs receiving an expansion grant;

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

7 (35) Reorganized district means any district involved in  
8 a consolidation and currently educating students following  
9 consolidation;

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

12 (37) Sparse local system means a local system that is not  
13 a very sparse local system but which meets the following criteria:

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

20 (b)(i) Less than one and one-half formula students per  
21 square mile in the local system and (ii) more than fifteen miles  
22 between each high school attendance center and the next closest high  
23 school attendance center on paved roads;

24 (c)(i) Less than one and one-half formula students per  
25 square mile in the local system and (ii) more than two hundred

1 seventy-five square miles in the local system; or

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

7 (38) Special education means specially designed  
8 kindergarten through grade twelve instruction pursuant to section  
9 79-1125, and includes special education transportation;

10 (39) Special grant funds means the budgeted receipts for  
11 grants, including, but not limited to, categorical funds,  
12 reimbursements for wards of the court, short-term borrowings  
13 including, but not limited to, registered warrants and tax  
14 anticipation notes, interfund loans, insurance settlements, and  
15 reimbursements to county government for previous overpayment. The  
16 state board shall approve a listing of grants that qualify as special  
17 grant funds;

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

21 (41) State board means the State Board of Education;

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

25 (43) Statewide average basic funding per formula student

1 means the statewide total basic funding for all districts divided by  
2 the statewide total formula students for all districts;

3 (44) Statewide average general fund operating  
4 expenditures per formula student means the statewide total general  
5 fund operating expenditures for all districts divided by the  
6 statewide total formula students for all districts;

7 (45) Teacher has the definition found in section 79-101;

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

20 (47) Tuition receipts from converted contracts means  
21 tuition receipts received by a district from another district in the  
22 most recently available complete data year pursuant to a converted  
23 contract prior to the expiration of the contract;

24 (48) Tuitioned students means students in kindergarten  
25 through grade twelve of the district whose tuition is paid by the

1 district to some other district or education agency; and

2 (49) Very sparse local system means a local system that  
3 has:

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

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

15 Sec. 5. Section 79-1007.20, Revised Statutes Cumulative  
16 Supplement, 2010, is amended to read:

17 79-1007.20 (1) ~~For school fiscal year 2009-10 and each~~  
18 ~~school fiscal year thereafter, school~~ School districts may apply to  
19 the department for a student growth adjustment, on a form prescribed  
20 by the department, on or before October 15 of the school fiscal year  
21 immediately preceding the school fiscal year for which aid is being  
22 calculated. Such form shall require an estimate of the average daily  
23 membership for the school fiscal year for which aid is being  
24 calculated, the estimated student growth calculated by subtracting  
25 the fall membership of the current school fiscal year from the

1 estimated average daily membership for the school fiscal year for  
2 which aid is being calculated, and evidence supporting the estimates.  
3 On or before the immediately following December 1, the department  
4 shall approve the estimated student growth, approve a modified  
5 student growth, or deny the application based on the requirements of  
6 this section, the evidence submitted on the application, and any  
7 other information provided by the department. The state board shall  
8 establish procedures for appeal of decisions of the department to the  
9 state board for final determination.

10 (2) The student growth adjustment for each approved  
11 district shall equal the sum of the product of the school district's  
12 basic funding per formula student multiplied by the difference of the  
13 approved student growth minus the greater of twenty-five students or  
14 one percent of the fall membership for the school fiscal year  
15 immediately preceding the school fiscal year for which aid is being  
16 calculated plus the product of fifty percent of the school district's  
17 basic funding per formula student multiplied by the greater of  
18 twenty-five students or one percent of the fall membership for the  
19 school fiscal year immediately preceding the school fiscal year for  
20 which aid is being calculated.

21 (3) For school fiscal year 2011-12 and each school fiscal  
22 year thereafter, the department shall calculate a student growth  
23 adjustment correction for each district that received a student  
24 growth adjustment for aid distributed in the most recently available  
25 complete data year. Such student growth correction shall equal the

1 product of the difference of the average daily membership for such  
2 school fiscal year minus the sum of the ~~formula students fall~~  
3 membership and the approved student growth used to calculate the  
4 student growth adjustment for such school fiscal year multiplied by  
5 the school district's basic funding per formula student used in the  
6 final calculation of aid pursuant to section 79-1065 for such school  
7 fiscal year, except that the absolute value of a negative correction  
8 shall not exceed the original adjustment.

9           Sec. 6. Section 79-1028.01, Revised Statutes Supplement,  
10 2011, is amended to read:

11           79-1028.01 (1) For each school fiscal year, a school  
12 district may exceed its budget authority for the general fund budget  
13 of expenditures as calculated pursuant to section 79-1023 for such  
14 school fiscal year by a specific dollar amount for the following  
15 exclusions:

16           (a) Expenditures for repairs to infrastructure damaged by  
17 a natural disaster which is declared a disaster emergency pursuant to  
18 the Emergency Management Act;

19           (b) Expenditures for judgments, except judgments or  
20 orders from the Commission of Industrial Relations, obtained against  
21 a school district which require or obligate a school district to pay  
22 such judgment, to the extent such judgment is not paid by liability  
23 insurance coverage of a school district;

24           (c) Expenditures pursuant to the Retirement Incentive  
25 Plan authorized in section 79-855 or the Staff Development Assistance

1 authorized in section 79-856;

2 (d) Expenditures of amounts received from educational  
3 entities as defined in section 79-1201.01 for providing distance  
4 education courses through the Educational Service Unit Coordinating  
5 Council to such educational entities;

6 ~~(e) Expenditures to pay another school district for the~~  
7 ~~transfer of land from such other school district;~~

8 ~~(f)~~ (e) Expenditures in school fiscal years 2009-10  
9 through 2016-17 to pay for employer contributions pursuant to  
10 subsection (2) of section 79-958 to the School Employees Retirement  
11 System of the State of Nebraska to the extent that such expenditures  
12 exceed the employer contributions under such subsection that would  
13 have been made at a contribution rate of seven and thirty-five  
14 hundredths percent;

15 ~~(g)~~ (f) Expenditures in school fiscal years 2009-10  
16 through 2016-17 to pay for school district contributions pursuant to  
17 subdivision (1)(c)(i) of section 79-9,113 to the retirement system  
18 established pursuant to the Class V School Employees Retirement Act  
19 to the extent that such expenditures exceed the school district  
20 contributions under such subdivision that would have been made at a  
21 contribution rate of seven and thirty-seven hundredths percent;

22 ~~(h)~~ (g) Expenditures for sums agreed to be paid by a  
23 school district to certificated employees in exchange for a voluntary  
24 termination occurring prior to July 1, 2009, or occurring on or after  
25 the last day of the 2010-11 school year and prior to the first day of

1 the 2013-14 school year;

2 ~~(i)~~(h) Any expenditures in school fiscal years 2016-17  
3 and 2017-18 of amounts specified in the notice provided by the  
4 Commissioner of Education pursuant to section 79-309.01 for teacher  
5 performance pay;

6 ~~(j)~~(i) The special education budget of expenditures; and  
7 ~~(k)~~(j) Expenditures of special grant funds.

8 (2) For each school fiscal year, a school district may  
9 exceed its budget authority for the general fund budget of  
10 expenditures as calculated pursuant to section 79-1023 for such  
11 school fiscal year by a specific dollar amount and include such  
12 dollar amount in the budget of expenditures used to calculate budget  
13 authority for the general fund budget of expenditures pursuant to  
14 section 79-1023 for future years for the following exclusions:

15 (a) Expenditures of incentive payments or base fiscal  
16 year incentive payments to be received in such school fiscal year  
17 pursuant to section 79-1011;

18 (b) The first school fiscal year the district will be  
19 participating in Network Nebraska for the full school fiscal year,  
20 for the difference of the estimated expenditures for such school  
21 fiscal year for telecommunications services, access to data  
22 transmission networks that transmit data to and from the school  
23 district, and the transmission of data on such networks as such  
24 expenditures are defined by the department for purposes of the  
25 distance education and telecommunications allowance minus the dollar

1 amount of such expenditures for the second school fiscal year  
2 preceding the first full school fiscal year the district participates  
3 in Network Nebraska; and

4 (c) Expenditures for new elementary attendance sites in  
5 the first year of operation or the first year of operation after  
6 being closed for at least one school year if such elementary  
7 attendance site will most likely qualify for the elementary site  
8 allowance in the immediately following school fiscal year as  
9 determined by the state board.

10 (3) The state board shall approve, deny, or modify the  
11 amount allowed for any exclusions to the budget authority for the  
12 general fund budget of expenditures pursuant to this section.

13 Sec. 7. Section 79-1104.02, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 79-1104.02 (1) The Early Childhood Education Endowment  
16 Cash Fund, consisting of the interest, earnings, and proceeds from  
17 the Early Childhood Education Endowment Fund and the earnings from  
18 the private endowment created by the endowment provider, and any  
19 additional private donations made directly thereto, shall be used  
20 exclusively to provide funds for the Early Childhood Education Grant  
21 Program for at-risk children from birth to age three as set forth in  
22 this section.

23 (2) Grants provided by this section shall be to school  
24 districts and cooperatives of school districts for early childhood  
25 education programs for at-risk children from birth to age three, as

1 determined by the board of trustees pursuant to criteria set forth by  
2 the board of trustees. School districts and cooperatives of school  
3 districts may establish agreements with other public and private  
4 entities to provide services or operate programs.

5 (3) Each program selected for a grant pursuant to this  
6 section may be provided a grant for up to one-half of the total  
7 budget of such program per year. Programs selected for grant awards  
8 may receive continuation grants subject to the availability of  
9 funding and the submission of a continuation plan which meets the  
10 requirements of the board of trustees.

11 (4) Programs shall be funded across the state and in  
12 urban and rural areas to the fullest extent possible.

13 (5) Each program selected for a grant pursuant to this  
14 section shall meet the requirements described in subsection (2) of  
15 section 79-1103, except that the periodic evaluations of the program  
16 are to be specified by the board of trustees and the programs need  
17 not include continuity with programs in kindergarten and elementary  
18 grades and need not include instructional hours that are similar to  
19 or less than the instructional hours for kindergarten. The programs  
20 may continue to serve at-risk children who turn three years of age  
21 during the program year until the end of the program year, as  
22 specified by the board of trustees.

23 (6) Up to ten percent of the total amount deposited in  
24 the Early Childhood Education Endowment Cash Fund each fiscal year  
25 may be reserved by the board of trustees for evaluation and technical

1 assistance for the Early Childhood Education Grant Program with  
2 respect to programs for at-risk children from birth to age three.

3           Sec. 8. Section 79-1118.01, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           79-1118.01 Disability means an impairment which causes a  
6 child to be classified as ~~mentally retarded, intellectually disabled,~~  
7 hard of hearing, deaf, speech and language impaired, blind and  
8 visually impaired, behaviorally disordered, orthopedically impaired,  
9 other health impaired, deaf-blind, or developmentally delayed or as  
10 having multiple disabilities or specific learning disabilities,  
11 traumatic brain injury, or autism and causes such child to need  
12 special education and related services. For purposes of this section:

13           (1) Autism means a developmental disability significantly  
14 affecting verbal and nonverbal communication and social interaction,  
15 generally evident before age three, that adversely affects a child's  
16 educational performance. Other characteristics often associated with  
17 autism are engagement in repetitive activities and stereotyped  
18 movements, resistance to environmental change or change in daily  
19 routines, and unusual responses to sensory experiences. Autism does  
20 not apply if a child's educational performance is adversely affected  
21 primarily because the child has a serious emotional disturbance;

22           (2) Behaviorally disordered means a condition in which a  
23 child exhibits one or more of the following characteristics over a  
24 long period of time and to a marked degree which adversely affects  
25 educational performance:

1           (a) An inability to learn which cannot be explained by  
2 intellectual, sensory, or health factors;

3           (b) An inability to build or maintain satisfactory  
4 interpersonal relationships with peers and teachers;

5           (c) Inappropriate types of behavior or feelings under  
6 normal circumstances;

7           (d) A general pervasive mood of unhappiness or  
8 depression; or

9           (e) A tendency to develop physical symptoms or fears  
10 associated with personal or school problems.

11           Behaviorally disordered includes schizophrenia but does  
12 not include social maladjustment unless the characteristics defined  
13 in subdivision (a) or (b) of this subdivision are also present;

14           (3) Blind and visually impaired means partially seeing or  
15 blind, which visual impairment, even with correction, adversely  
16 affects a child's educational performance;

17           (4) Deaf means a hearing impairment which is so severe  
18 that processing linguistic information through hearing, with or  
19 without amplification, is impaired to the extent that educational  
20 performance is adversely affected;

21           (5) Deaf-blind means concomitant hearing and visual  
22 impairments, the combination of which causes such severe  
23 communication and other developmental and educational problems that  
24 such impairments cannot be accommodated in special education programs  
25 solely for children who are deaf or blind;

1           (6) Developmental delay means either a significant delay  
2 in function in one or more of the following areas: (a) Cognitive  
3 development; (b) physical development; (c) communication development;  
4 (d) social or emotional development; or (e) adaptive behavior or  
5 skills development, or a diagnosed physical or mental condition that  
6 has a high probability of resulting in a substantial delay in  
7 function in one or more of such areas;

8           (7) Hard of hearing means a hearing impairment, whether  
9 permanent or fluctuating, which adversely affects educational  
10 performance but is not included under the term deaf in subdivision  
11 (4) of this section;

12           (8) ~~Mentally retarded~~ Intellectually disabled means a  
13 condition in which a child exhibits significantly subaverage general  
14 intellectual functioning existing concurrently with deficits in  
15 adaptive behavior and manifested during the developmental period  
16 which adversely affects educational performance;

17           (9) Multiple disabilities means concomitant impairments,  
18 such as ~~mentally retarded blind or mentally retarded orthopedically~~  
19 ~~impaired,~~ intellectually disabled-blind or intellectually disabled-  
20 orthopedically impaired, the combination of which causes such severe  
21 educational problems that a child with such impairments cannot be  
22 accommodated in special education programs for one of the  
23 impairments. Multiple disabilities does not include deaf-blind;

24           (10) Orthopedically impaired means a severe orthopedic  
25 impairment which adversely affects a child's educational performance.

1 Severe orthopedic impairments include impairments caused by (a)  
2 congenital anomaly, including, but not limited to, clubfoot or  
3 absence of a member, (b) disease, including, but not limited to,  
4 poliomyelitis or bone tuberculosis, or (c) other causes, including,  
5 but not limited to, cerebral palsy, amputations, and fractures and  
6 burns which cause contractures;

7           (11) Other health impaired means having limited strength,  
8 vitality, or alertness due to chronic or acute health problems,  
9 including, but not limited to, a heart condition, tuberculosis,  
10 rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia,  
11 epilepsy, lead poisoning, leukemia, or diabetes, which adversely  
12 affects a child's educational performance;

13           (12) Specific learning disability means a disorder in one  
14 or more of the basic psychological processes involved in  
15 understanding or in using language, spoken or written, which may  
16 manifest itself in an imperfect ability to listen, think, speak,  
17 read, write, spell, or do mathematical calculations. Specific  
18 learning disability includes, but is not limited to, perceptual  
19 disabilities, brain injury, minimal brain dysfunction, dyslexia, and  
20 developmental aphasia;

21           (13) Speech-and-language-impaired means having a  
22 communication disorder such as stuttering, impaired articulation,  
23 language impairments, or voice impairment which adversely affects a  
24 child's educational performance; and

25           (14) Traumatic brain injury means an acquired injury to

1 the brain caused by an external physical force, resulting in total or  
2 partial functional disability or psychosocial impairment, or both,  
3 that adversely affects a child's educational performance. Traumatic  
4 brain injury applies to open or closed head injuries resulting in  
5 impairments in one or more areas, including cognition; language;  
6 memory; attention; reasoning; abstract thinking; judgment; problem  
7 solving; sensory, perceptual, and motor abilities; psychosocial  
8 behavior; physical functions; information processing; and speech.  
9 Traumatic brain injury does not include brain injuries that are  
10 congenital or degenerative or brain injuries induced by birth trauma.

11 The State Department of Education may group or subdivide  
12 the classifications of children with disabilities for the purpose of  
13 program description and reporting. The department shall establish  
14 eligibility criteria and age ranges for the disability classification  
15 of developmental delay.

16 Sec. 9. Section 79-1204, Revised Statutes Cumulative  
17 Supplement, 2010, is amended to read:

18 79-1204 (1) The role and mission of the educational  
19 service units is to serve as educational service providers in the  
20 state's system of elementary and secondary education.

21 (2) Educational service units shall:

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

25 (b) Provide for economy, efficiency, and cost-

1 effectiveness in the cooperative delivery of educational services;

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

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

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

14 (3) Core services shall be provided by educational  
15 service units to all member school districts. Core services shall be  
16 defined by each educational service unit as follows:

17 (a) Core services shall be within the following service  
18 areas in order of priority: (i) Staff development which shall include  
19 access to staff development related to improving the achievement of  
20 students in poverty and students with diverse backgrounds; (ii)  
21 technology, including distance education services; and (iii)  
22 instructional materials services;

23 (b) Core services shall improve teaching and student  
24 learning by focusing on enhancing school improvement efforts, meeting  
25 statewide requirements, and achieving statewide goals in the state's

1 system of elementary and secondary education;

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

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

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

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

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

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

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

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

22 (a) Provide for accountability to taxpayers;

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

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

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

6                   (a) Nonmember public school districts;

7                   (b) Nonpublic school systems;

8                   (c) Other educational service units; and

9                   (d) Other ~~political subdivisions, public agencies,~~ under  
10 the Interlocal Cooperation Act and the Joint Public Agency Act.

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

14                   Sec. 10. Section 79-1336, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16                   79-1336 (1) For fiscal years 2007-08 through 2013-14, the  
17 State Department of Education shall provide distance education  
18 equipment reimbursement to school districts and educational service  
19 units from the Education Innovation Fund as provided in this section.  
20 Such reimbursements shall be for hardware or software purchased  
21 either by, or on behalf of, the school district or educational  
22 service unit seeking reimbursement after July 14, 2006, for use in  
23 distance education and shall be limited to a total through fiscal  
24 year 2013-14 of twenty thousand dollars multiplied by the number of  
25 high school buildings for each school district and twenty thousand

1 dollars for each educational service unit office with a distance  
2 education classroom, except that no educational service unit shall  
3 count more than one office with a distance education classroom for  
4 each four thousand square miles within the boundaries of the  
5 educational service unit. If a school district has one or more former  
6 high school buildings that are no longer being used as high school  
7 buildings due to a school district merger and such buildings have  
8 distance education classrooms at the time of application, such  
9 buildings shall be deemed high school buildings for the purposes of  
10 this subsection. The reimbursements may include installation costs  
11 for such hardware or software. ~~Applications shall be accepted by the~~  
12 ~~department beginning in the first year that~~ To qualify for distance  
13 education equipment reimbursement, the school district or the  
14 educational service unit ~~accesses~~ shall access Network Nebraska ~~and~~  
15 ~~ending June 30, 2013.~~ prior to the application for reimbursement.  
16 Applications for distance education equipment reimbursement shall be  
17 submitted on or before July 1, 2012, for reimbursements to be made in  
18 fiscal year 2012-13 and on or before July 1, 2013, for reimbursements  
19 to be made in fiscal year 2013-14 ~~of each year~~ on a form specified by  
20 the department and shall include:

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

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

25 (c) For purchases made on behalf of a school district or

1 educational service unit, evidence that such purchase was made on  
2 behalf of such school district or educational service unit and that  
3 such school district or educational service unit paid directly or  
4 indirectly for such purchase; and

5 (d) For school districts, a commitment to either send or  
6 receive two-way interactive video distance education courses through  
7 the Distance Education Council until July 1, 2008, and the  
8 Educational Service Unit Coordinating Council on and after July 1,  
9 2008, each semester, or the equivalent of two semester courses each  
10 year, for four consecutive years and to apply for distance education  
11 incentives pursuant to section 79-1337 or to provide any other  
12 evidence required by the department to show that the commitment was  
13 met.

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

17 (3) The department shall use the applications for  
18 distance education incentives submitted pursuant to section 79-1337  
19 and any other information requested by the department pursuant to  
20 rules and regulations of the department to verify that each school  
21 district that received a reimbursement completes the commitment to  
22 either send or receive two-way interactive video distance education  
23 courses through the council for four years. Any school district  
24 failing to complete such commitment shall repay the Education  
25 Innovation Fund for the amount of any reimbursements received

1 pursuant to this section. On or before September 1 of each year, the  
2 department shall notify any school district failing to complete the  
3 commitment for the prior school year that repayment of the  
4 reimbursement is required and the amount of such repayment.  
5 Repayments shall be due on or before the immediately following  
6 December 31. Late repayments shall accrue interest at the rate  
7 prescribed in section 45-104.02 from the date of the initial  
8 reimbursement.

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

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

24 Sec. 11. Section 79-2104.02, Revised Statutes Supplement,  
25 2011, is amended to read:

1                   79-2104.02 Each learning community coordinating council  
2 shall use any funds received after January 15, 2011, pursuant to  
3 section 79-1241.03 for evaluation and research pursuant to plans  
4 developed by the learning community coordinating council with  
5 assistance from the educational service unit coordinating council and  
6 adjusted on an ongoing basis. The evaluation shall be conducted by  
7 one or more other entities or individuals who are not employees of  
8 the learning community and shall measure progress toward the goals  
9 and objectives of the learning community, which goals and objectives  
10 shall include reduction of excessive absenteeism of students in the  
11 member school districts of the learning community and closing  
12 academic achievement gaps based on socioeconomic status, and the  
13 effectiveness of the approaches used by the learning community or  
14 pilot project to reach such goals and objectives. Any research  
15 conducted pursuant to this section shall also be related to such  
16 goals and objectives. After the first full year of operation, each  
17 learning community shall report evaluation and research results to  
18 the Education Committee of the Legislature on or before ~~December~~  
19 January 1 of each year.

20                   Sec. 12. Section 79-2118, Revised Statutes Cumulative  
21 Supplement, 2010, is amended to read:

22                   79-2118 (1) Each learning community, together with its  
23 member school districts, shall develop a diversity plan to provide  
24 educational opportunities pursuant to sections 79-769 and 79-2110 in  
25 each subcouncil district designed to attract students from diverse

1 backgrounds, which plan may be revised from time to time. The initial  
2 diversity plan shall be completed by December 31 of the year the  
3 initial learning community coordinating council for the learning  
4 community takes office. The goal of the diversity plan shall be to  
5 annually increase the socioeconomic diversity of enrollment at each  
6 grade level in each school building within the learning community  
7 until such enrollment reflects the average socioeconomic diversity of  
8 the entire enrollment of the learning community.

9 (2) Each diversity plan for a learning community shall  
10 include specific provisions relating to each subcouncil district  
11 within such learning community. The specific provisions relating to  
12 each subcouncil district shall be approved by both the achievement  
13 subcouncil for such district and by the learning community  
14 coordinating council.

15 (3) The learning community coordinating council shall  
16 report to the Education Committee of the Legislature on or before  
17 ~~December~~ January 1 of each ~~even-numbered~~ odd-numbered year on the  
18 diversity and changes in diversity at each grade level in each school  
19 building within the learning community and on the academic  
20 achievement for different demographic groups in each school building  
21 within the learning community.

22 Sec. 13. Original sections 79-241, 79-1104.02,  
23 79-1118.01, and 79-1336, Reissue Revised Statutes of Nebraska,  
24 sections 79-234, 79-237, 79-1007.20, 79-1204, and 79-2118, Revised  
25 Statutes Cumulative Supplement, 2010, and sections 79-1003,

1 79-1028.01, and 79-2104.02, Revised Statutes Supplement, 2011, are  
2 repealed.

3           Sec. 14. The following section is outright repealed:  
4 Section 79-756, Reissue Revised Statutes of Nebraska.

5           Sec. 15. Since an emergency exists, this act takes effect  
6 when passed and approved according to law.