

LEGISLATIVE BILL 235

Approved by the Governor April 26, 2011

Introduced by Adams, 24.

FOR AN ACT relating to education; to amend sections 79-413, 79-536, 79-1008.02, 79-1009, 79-1015.01, 79-1025, and 79-1029, Reissue Revised Statutes of Nebraska, sections 77-3446, 79-1003.01, 79-1005.01, 79-1007.10, 79-1007.11, 79-1007.16, 79-1007.18, 79-1017.01, 79-1018.01, 79-1028.01, 79-1030, and 79-1103, Revised Statutes Cumulative Supplement, 2010, and sections 79-1001, 79-1003, 79-1008.01, and 79-1023, Revised Statutes Cumulative Supplement, 2010, as amended by sections 1, 2, 5, and 8, respectively, Legislative Bill 18, One Hundred Second Legislature, First Session, 2011; to change and eliminate provisions relating to summer school and summer sessions and state aid to schools; to harmonize provisions; to repeal the original sections; to outright repeal sections 79-1005.02, 79-1007.01, 79-1007.02, 79-1010, 79-1026, 79-1028, and 79-1083.03, Reissue Revised Statutes of Nebraska, sections 79-1007.19 and 79-1007.24, Revised Statutes Cumulative Supplement, 2010, and section 79-1026.01, Revised Statutes Cumulative Supplement, 2010, as amended by section 9, Legislative Bill 18, One Hundred Second Legislature, First Session, 2011; and to declare an emergency.

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

Section 1. Section 77-3446, Revised Statutes Cumulative Supplement, 2010, is amended to read:

77-3446 Base limitation means the budget limitation rate applicable to school districts and the limitation on growth of restricted funds applicable to other political subdivisions prior to any increases in the rate as a result of special actions taken by a supermajority of any governing board or of any exception allowed by law. The base limitation is two and one-half percent until adjusted, except that the base limitation for school districts for school fiscal years 2009-10, 2011-12, and 2012-13 is one and one-half percent and the base limitation for school districts for school fiscal year 2010-11 is twenty-five hundredths of one percent, the base limitation for school districts for school fiscal year 2011-12 is zero percent, and the base limitation for school districts for school fiscal year 2012-13 is one-half of one percent. The base limitation may be adjusted annually by the Legislature to reflect changes in the prices of services and products used by school districts and political subdivisions.

Sec. 2. Section 79-413, Reissue Revised Statutes of Nebraska, is amended to read:

79-413 (1) The State Committee for the Reorganization of School Districts created under section 79-435 may create a new school district from other districts, change the boundaries of any district that is not a member of a learning community, or affiliate a Class I district or portion thereof with one or more existing Class II, III, IV, or V districts upon receipt of petitions signed by sixty percent of the legal voters of each district affected. If the petitions contain signatures of at least sixty-five percent of the legal voters of each district affected, the state committee shall approve the petitions. When area is added to a Class VI district or when a Class I district which is entirely or partially within a Class VI district is taken from the Class VI district, the Class VI district shall be deemed to be an affected district.

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

(2)(a) Petitions proposing to change the boundaries of existing school districts that are not members of a learning community through the transfer of a parcel of land, not to exceed six hundred forty acres, shall be approved by the state committee when the petitions involve the transfer of land between Class I, II, III, or IV school districts or when there would be an exchange of parcels of land between Class I, II, III, or IV school districts and the petitions have the approval of at least sixty-five percent

of the school board of each affected district. If the transfer of the parcel of land is from a Class I school district to one or more Class II, III, IV, V, or VI school districts of which the parcel is not a part or with which the parcel is not affiliated, any Class II, III, IV, V, or VI school district of which the parcel is not a part or with which the parcel is affiliated shall be deemed an affected district.

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

(3) (a) Petitions proposing to create a new school district, to change the boundary lines of existing school districts that are not members of a learning community, to create an affiliated school system, or to affiliate a Class I district in part and to join such district in part with a Class VI district, any of which involves the transfer of more than six hundred forty acres, shall, when signed by at least sixty percent of the legal voters in each district affected, be submitted to the state committee. In the case of a petition for affiliation or a petition to affiliate in part and in part to join a Class VI district, the state committee shall review the proposed affiliation subject to sections 79-425 and 79-426. The state committee shall, within forty days after receipt of the petition, hold one or more public hearings and review and approve or disapprove such proposal.

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

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

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

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

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

Sec. 3. Section 79-536, Reissue Revised Statutes of Nebraska, is amended to read:

79-536 (1) Summer school means educational opportunities that, except as otherwise provided in this section, are undertaken on a voluntary basis by students who will be entering any of grades one through twelve in the next school year and are offered during the period of time between two consecutive school years.

(2) Summer school may be offered by any school district.

(3) The board of education of any school district may require children between and including the ages of six and fifteen years, regularly enrolled within the system and deemed by the school administration to be making unsatisfactory progress, to attend summer school for up to one-half of a regular school day if in the opinion of the administration they would benefit from the experience. Chief emphasis in such summer classes shall be on reading, language arts, and arithmetic and those areas of personality development especially in need of development. Teachers shall be encouraged to design new and imaginative techniques and curricula not usually used during the regular school year which in the opinion of such teachers will offer new incentives towards learning, with special emphasis on those techniques that seek to develop the students' personalities in a wholesome manner, especially developing pride, self-confidence, and self-control. Teachers of such classes

shall not be assigned more than fifteen students, or more than twenty-five students if assisted full time by an aide or paraprofessional. Such students shall be graded at the end of the course upon their relative degree of striving to improve their skills, attitudes, and personalities.

Sec. 4. Section 79-1001, Revised Statutes Cumulative Supplement, 2010, as amended by section 1, Legislative Bill 18, One Hundred Second Legislature, First Session, 2011, is amended to read:

79-1001 Sections 79-1001 to 79-1033 and section 11 of this act and section 15 of this act shall be known and may be cited as the Tax Equity and Educational Opportunities Support Act.

Sec. 5. Section 79-1003, Revised Statutes Cumulative Supplement, 2010, as amended by section 2, Legislative Bill 18, One Hundred Second Legislature, First Session, 2011, is amended to read:

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

(1) Adjusted general fund operating expenditures means ~~(a) for school fiscal years before school fiscal year 2007-08, general fund operating expenditures as calculated pursuant to subdivision (21) of this section minus the transportation allowance and minus the special receipts allowance,~~ ~~(b) for school fiscal year 2007-08, general fund operating expenditures as calculated pursuant to subdivision (21) of this section minus the sum of the transportation, special receipts, and distance education and telecommunications allowances,~~ ~~(c) for school fiscal year 2008-09, the difference of the product of the general fund operating expenditures as calculated pursuant to subdivision (21) of this section multiplied by the cost growth factor calculated pursuant to section 79-1007.10 minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, elementary class size allowance, summer school allowance, and focus school and program allowance,~~ ~~(d) for school fiscal year 2009-10, the difference of the product of the general fund operating expenditures as calculated pursuant to subdivision (21) of this section multiplied by the cost growth factor calculated pursuant to section 79-1007.10 minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, elementary class size allowance, summer school allowance, instructional time allowance, and focus school and program allowance,~~ ~~(e) (a) for school fiscal years 2010-11 through 2012-13, the difference of the product of the general fund operating expenditures as calculated pursuant to subdivision (21) (22) of this section increased by, or for aid calculated for school fiscal year 2010-11 multiplied by,~~ the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, elementary class size allowance, summer school allowance, instructional time allowance, teacher education allowance, and focus school and program allowance, and ~~(f) (b) for school fiscal year 2013-14 and each school fiscal year thereafter, the difference of the product of the general fund operating expenditures as calculated pursuant to subdivision (21) (22) of this section multiplied increased by~~ the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, instructional time allowance, teacher education allowance, and focus school and program allowance;

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

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

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

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

~~(6)~~ (5) Base fiscal year means the first school fiscal year following the school fiscal year in which the reorganization or unification occurred;

~~(7)~~ (6) Board means the school board of each school district;

~~(8)~~ (7) Categorical funds means funds limited to a specific purpose by federal or state law, including, but not limited to, Title I funds, Title VI funds, federal vocational education funds, federal school lunch funds, Indian education funds, Head Start funds, and funds from the Education Innovation Fund. Categorical funds does not include funds received pursuant to section 79-1028.02 or section 11 of this act;

~~(9)~~ (8) Consolidate means to voluntarily reduce the number of school districts providing education to a grade group and does not include dissolution pursuant to section 79-498;

(9) Converted contract means an expired contract that was in effect for at least fifteen school years beginning prior to school year 2012-13 for the education of students in a nonresident district in exchange for tuition from the resident district when the expiration of such contract results in the nonresident district educating students, who would have been covered by the contract if the contract were still in effect, as option students pursuant to the enrollment option program established in section 79-234;

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

~~(10)~~ (11) Department means the State Department of Education;

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

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

~~(13)~~ (14) Equalization aid means the amount of assistance calculated to be paid to a local system pursuant to sections 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022, 79-1022.02, and 79-1028.02 and section 11 of this act;

~~(14)~~ (15) Fall membership means the total membership in kindergarten through grade twelve attributable to the local system as reported on the fall school district membership reports for each district pursuant to section 79-528;

~~(15)~~ (16) Fiscal year means the state fiscal year which is the period from July 1 to the following June 30;

~~(16)~~ (17) Formula students means:

~~(a)~~ For school fiscal years prior to school fiscal year 2008-09, ~~(i)~~ for state aid certified pursuant to section 79-1022, the sum of fall membership from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid, multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid and the prior two school fiscal years, plus qualified early childhood education fall membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and ~~(ii)~~ for final calculation of state aid pursuant to section 79-1065, the sum of average daily membership plus qualified early childhood education average daily membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which the aid was paid; and

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

of students enrolled in kindergarten that is not full-day kindergarten from the fall membership multiplied by 0.5; and ~~(ii) for~~

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

~~(17)~~ (18) Free lunch and free milk student means a student who qualified for free lunches or free milk from the most recent data available on November 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid;

~~(18)~~ (19) Full-day kindergarten means kindergarten offered by a district for at least one thousand thirty-two instructional hours;

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

~~(20)~~ (21) General fund expenditures means all expenditures from the general fund;

~~(21) General fund operating expenditures means:~~

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

~~(b) For state aid calculated for school fiscal year 2008-09, as reported for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid on the annual financial report submitted prior to December 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, and federal impact aid, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, and (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund;~~

~~(c) For state aid calculated for school fiscal year 2009-10, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, and federal impact aid, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, and (iv) any legal expenses in excess of fifteen-hundredths of one percent of the formula~~

need for the school fiscal year in which the expenses occurred; and

~~(d) For state aid calculated for school fiscal year 2010-11 and each school fiscal year thereafter, (22) General fund operating expenditures means:~~

(a) For state aid calculated for school fiscal years 2010-11 and 2011-12, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, federal impact aid, and levy override elections pursuant to section 77-3444, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, (iv) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred, (v) expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009, and (vi) (A) expenditures in school fiscal years 2009-10 through 2013-14 to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent or (B) expenditures in school fiscal years 2009-10 through 2013-14 to pay for school district contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to the retirement system established pursuant to the Class V School Employees Retirement System Act to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent; and-

(b) For state aid calculated for school fiscal years 2012-13 and each school fiscal year thereafter, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, federal impact aid, and levy override elections pursuant to section 77-3444, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, (iv) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred, (v) expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009, or occurring on or after July 1, 2011, and on or before June 30, 2013, (vi) (A) expenditures in school fiscal years 2009-10 through 2016-17 to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent or (B) expenditures in school fiscal years 2009-10 through 2016-17 to pay for school district contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to the retirement system established pursuant to the Class V School Employees Retirement Act to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent, and (vii) any amounts paid by the district for lobbyist

fees and expenses reported to the Clerk of the Legislature pursuant to section 49-1483.

For purposes of this subdivision ~~(21)~~ (22) of this section, receipts from levy override elections shall equal ninety-nine percent of the difference of the total general fund levy minus a levy of one dollar and five cents per one hundred dollars of taxable valuation multiplied by the assessed valuation for school districts that have voted pursuant to section 77-3444 to override the maximum levy provided pursuant to section 77-3442;

~~(22)~~ (23) High school district means a school district providing instruction in at least grades nine through twelve;

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

~~(24)~~ (25) Income tax receipts means the amount of income tax collected pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

~~(25)~~ (26) Limited English proficiency students means ~~(a) for school fiscal years prior to school fiscal year 2009-10, the number of students with limited English proficiency in a district from the most recent data available on November 1 of the school fiscal year preceding the school fiscal year in which aid is to be paid and (b) for school fiscal year 2009-10 and each school fiscal year thereafter,~~ the number of students with limited English proficiency in a district from the most recent data available on November 1 of the school fiscal year preceding the school fiscal year in which aid is to be paid plus the difference of such students with limited English proficiency minus the average number of limited English proficiency students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

~~(26)~~ (27) Local system means a learning community for purposes of calculation of state aid for the second full school fiscal year after becoming a learning community and each school fiscal year thereafter, a unified system, a Class VI district and the associated Class I districts, or a Class II, III, IV, or V district and any affiliated Class I districts or portions of Class I districts. The membership, expenditures, and resources of Class I districts that are affiliated with multiple high school districts will be attributed to local systems based on the percent of the Class I valuation that is affiliated with each high school district;

~~(27)~~ (28) Low-income child means ~~(a) for school fiscal years prior to 2008-09, a child under nineteen years of age living in a household having an annual adjusted gross income of fifteen thousand dollars or less for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated and (b) for school fiscal year 2008-09 and each school fiscal year thereafter,~~ a child under nineteen years of age living in a household having an annual adjusted gross income for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated equal to or less than the maximum household income that would allow a student from a family of four people to be a free lunch and free milk student during the school fiscal year immediately preceding the school fiscal year for which aid is being calculated;

~~(28)~~ (29) Low-income students means the number of low-income children within the district multiplied by the ratio of the formula students in the district divided by the total children under nineteen years of age residing in the district as derived from income tax information;

~~(29)~~ (30) Most recently available complete data year means the most recent single school fiscal year for which the annual financial report, fall school district membership report, annual statistical summary, Nebraska income tax liability by school district for the calendar year in which the majority of the school fiscal year falls, and adjusted valuation data are available;

~~(30)~~ (31) Poverty students means ~~(a) for school fiscal years prior to school fiscal year 2009-10, the number of low-income students or the number of students who are free lunch and free milk students in a district, whichever is greater, and (b) for school fiscal year 2009-10 and each school fiscal year thereafter,~~ the number of low-income students or the number of students who are free lunch and free milk students in a district plus the difference of the number of low-income students or the number of students who are free lunch and free milk students in a district, whichever is greater, minus the average number of poverty students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

~~(31)~~ (32) Qualified early childhood education average daily membership means the product of the average daily membership for school fiscal year 2006-07 and each school fiscal year thereafter of students who will be

eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the actual instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

~~(32)~~ (33) Qualified early childhood education fall membership means the product of membership on the last Friday in September 2006 and each year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the planned instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

~~(33)~~ (34) Regular route transportation means the transportation of students on regularly scheduled daily routes to and from the attendance center;

~~(34)~~ (35) Reorganized district means any district involved in a consolidation and currently educating students following consolidation;

~~(35)~~ (36) School year or school fiscal year means the fiscal year of a school district as defined in section 79-1091;

~~(36)~~ (37) Sparse local system means a local system that is not a very sparse local system but which meets the following criteria:

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

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

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

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

~~(37)~~ (38) Special education means specially designed kindergarten through grade twelve instruction pursuant to section 79-1125, and includes special education transportation;

~~(38)~~ (39) Special grant funds means the budgeted receipts for grants, including, but not limited to, ~~Title I funds, Title VI funds, funds from the Education Innovation Fund,~~ categorical funds, reimbursements for wards of the court, short-term borrowings including, but not limited to, registered warrants and tax anticipation notes, interfund loans, insurance settlements, and reimbursements to county government for previous overpayment. The state board shall approve a listing of grants that qualify as special grant funds;

~~(39)~~ (40) State aid means the amount of assistance paid to a district pursuant to the Tax Equity and Educational Opportunities Support Act;

~~(40)~~ (41) State board means the State Board of Education;

~~(41)~~ (42) State support means all funds provided to districts by the State of Nebraska for the general fund support of elementary and secondary education;

~~(42)~~ (43) Statewide average basic funding per formula student means the statewide total basic funding for all districts divided by the statewide total formula students for all districts;

~~(43)~~ (44) Statewide average general fund operating expenditures per formula student means the statewide total general fund operating expenditures for all districts divided by the statewide total formula students for all districts;

~~(44)~~ (45) Teacher has the definition found in section 79-101;

~~(45)~~ (46) Temporary aid adjustment factor means (a) for school fiscal years before school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, the local system's special receipts allowance, and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping and (b) for school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, special receipts allowance, and distance education and telecommunications allowance and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping;

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

~~(46)~~ (48) Tuitioned students means students in kindergarten through grade twelve of the district whose tuition is paid by the district to some other district or education agency; and

~~(47)~~ (49) Very sparse local system means a local system that has:

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

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

Sec. 6. Section 79-1003.01, Revised Statutes Cumulative Supplement, 2010, is amended to read:

79-1003.01 ~~(1)~~ For school fiscal year 2008-09, the department shall calculate a summer school allowance for each district equal to two and one-half percent of the summer school student units for such district multiplied by eighty-five percent of the statewide average general fund operating expenditures per formula student. For purposes of this subsection, summer school student unit means one student enrolled in summer school in a school district, whether or not the student is in the membership of the school district, for (a) at least three hours but fewer than six hours per day and (b) at least twelve days but fewer than twenty-four days. Each school district shall receive a summer school student unit for each qualified time period for which a student is enrolled, up to six units per student per summer.

~~(2)~~ For school fiscal year 2009-10 and each school fiscal year thereafter, the (1) The department shall calculate a summer school allowance for each district which submits the information required for the calculation on a form prescribed by the department on or before October 15 of the school fiscal year preceding the school fiscal year for which aid is being calculated. A summer school allowance shall be equal to two and one-half percent of the summer school student units for such district multiplied by eighty-five percent of the statewide average general fund operating expenditures per formula student.

(2) Summer school student units shall be calculated for each student enrolled in summer school as defined in section 79-536 in a school district who attends such summer school for at least twelve days in the most recently available complete data year, whether or not the student is in the membership of the school district. The initial number of units for each such student shall equal the sum of the ratios, each rounded down to the nearest whole number, of the number of days for which the student attended summer school classes in such district for at least three hours and less than six hours per day divided by twelve days and of two times the number of days for which the student attended summer school classes in such district for six or more hours per day divided by twelve days.

(3) Each school district shall receive an additional summer school student unit for each summer school student unit attributed to remedial math or reading programs. Each school district shall also receive an additional summer school student unit for each summer school student unit attributed to a free lunch and free milk student.

(4) Beginning with state aid calculated for school fiscal year 2012-13, summer school student units shall be calculated for each student who was both enrolled in the most recently available complete data year in a summer session of an early childhood education program for which a

qualified early childhood education fall membership greater than zero has been calculated for the school fiscal year for which aid is being calculated and eligible to attend kindergarten in the fall immediately following such summer session. The initial number of units for each such early childhood education student shall equal the sum of the ratios, each rounded down to the nearest whole number, of the number of days for which the student attended the summer session in such district for at least three hours and less than six hours per day divided by twelve days and of two times the number of days for which the student attended the summer session in such district for six or more hours per day divided by twelve days. The initial summer school student units for early childhood education students shall be multiplied by six-tenths. Instructional hours included in the calculation of the qualified early childhood education fall membership or the qualified early childhood education average daily membership shall not be included in the calculation of the summer school allowance.

(5) Each school district shall receive an additional six-tenths of a summer school student unit for each early childhood education student unit attributed to a free lunch and free milk early childhood education student.

(6) This section does not prevent school districts from requiring and collecting fees for summer school or summer sessions of early childhood education programs, except that summer school student units shall not be calculated for school districts which collect fees for summer school from students who qualify for free or reduced-price lunches under United States Department of Agriculture child nutrition programs.

Sec. 7. Section 79-1005.01, Revised Statutes Cumulative Supplement, 2010, is amended to read:

79-1005.01 ~~For state aid calculated for all school fiscal years except school fiscal years 2002-03 through 2007-08.~~

(1) An amount equal to the amount appropriated to the School District Income Tax Fund for distribution in school fiscal year 1992-93 shall be disbursed as option payments as determined under section 79-1009 and as allocated income tax funds as determined in this section and sections 79-1008.01, 79-1015.01, 79-1017.01, and 79-1018.01, except as provided in section 79-1008.02. Funds not distributed as allocated income tax funds due to minimum levy adjustments shall not increase the amount available to local systems for distribution as allocated income tax funds.

(2) Not later than November 15 of each year, the Tax Commissioner shall certify to the department for the preceding tax year the income tax liability of resident individuals for each local system. The 1996 income tax liability of resident individuals of Class I districts that are affiliated with multiple high school districts shall be divided between local systems based on the percentage of the Class I district's valuation affiliated with each high school district.

(3) Using the data certified by the Tax Commissioner pursuant to ~~subdivision subsection~~ subsection (2) of this section, the department shall calculate the allocation percentage and each local system's allocated income tax funds. The allocation percentage shall be an amount equal to the amount appropriated to the School District Income Tax Fund for distribution in school fiscal year 1992-93 minus the total amount paid for option students pursuant to section 79-1009 and (a) for aid calculated for school fiscal year 2010-11, minus twenty million dollars and (b) for aid calculated for school fiscal years 2011-12 and 2012-13, minus twenty-one million dollars with the difference divided by the aggregate statewide income tax liability of all resident individuals certified pursuant to ~~subdivision subsection~~ subsection (2) of this section. Each local system's allocated income tax funds shall be calculated by multiplying the allocation percentage times the local system's income tax liability certified pursuant to ~~subdivision subsection~~ subsection (2) of this section.

Sec. 8. Section 79-1007.10, Revised Statutes Cumulative Supplement, 2010, is amended to read:

79-1007.10 (1) For state aid calculated for all school fiscal years ~~except school fiscal years 2009-10 through 2013-14, year 2010-11,~~ the cost growth factor shall equal the sum of: (a) ~~One,~~ plus ~~(b) the~~ The basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus ~~(c)~~ (b) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be distributed; ~~plus (d) one percent.~~

~~(2)(a) For state aid calculated for school fiscal year 2009-10,~~ the cost growth factor shall equal the sum of: ~~(i) One,~~ plus ~~(ii) the~~ basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus ~~(iii) the~~ basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately

preceding the school fiscal year in which the aid is to be distributed; plus ~~(iv) one and five-tenths percent.~~

~~(b) (2)~~ For state aid calculated for school fiscal year 2010-11, the cost growth factor shall equal the sum of: (i) One; plus (ii) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus (iii) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be distributed; plus (iv) two percent.

~~(c)~~ For state aid calculated for school fiscal years 2011-12 through 2013-14, the cost growth factor shall equal the sum of: ~~(i) One; plus (ii) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus (iii) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be distributed; plus (iv) one and five-tenths percent.~~

Sec. 9. Section 79-1007.11, Revised Statutes Cumulative Supplement, 2010, is amended to read:

79-1007.11 ~~(1)~~ Except as otherwise provided in this section, for school fiscal year 2008-09, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, elementary class size allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, distance education and telecommunications allowance, averaging adjustment, and teacher education adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, and local choice adjustment.

~~(2)~~ Except as otherwise provided in this section, for school fiscal year 2009-10, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, elementary class size allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, distance education and telecommunications allowance, averaging adjustment, teacher education adjustment, new learning community transportation adjustment, student growth adjustment, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, and local choice adjustment.

~~(3) (1)~~ Except as otherwise provided in this section, for school fiscal year 2010-11, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, elementary class size allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, teacher education allowance, distance education and telecommunications allowance, averaging adjustment, new learning community transportation adjustment, student growth adjustment, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, and local choice adjustment.

~~(4) (2)~~ Except as otherwise provided in this section, for school fiscal years 2011-12 and 2012-13, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, elementary class size allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, teacher education allowance, distance education and telecommunications allowance, averaging adjustment, new learning community transportation adjustment, student growth adjustment, any positive student growth adjustment correction, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, any negative student growth adjustment correction, and local choice adjustment.

~~(5) (3)~~ Except as otherwise provided in this section, for school fiscal year 2013-14 and each school fiscal year thereafter, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, teacher education allowance, distance education and telecommunications allowance, averaging adjustment, new learning community transportation adjustment, student growth adjustment,

any positive student growth adjustment correction, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, any negative student growth adjustment correction, and local choice adjustment.

~~(6)~~ (4) For state aid calculated for all school fiscal years except school fiscal year 2011-12, if the formula need calculated for a school district pursuant to ~~subsections (1) through (5)~~ subsections (1) through (3) of this section is less than one hundred percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, the formula need for such district shall equal one hundred percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated. For state aid calculated for school fiscal year 2011-12, if the formula need calculated for a school district pursuant to subsection (2) of this section is less than ninety-five percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, the formula need for such district shall equal ninety-five percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

~~(7)~~ Except (5) For state aid calculated for school fiscal years except school fiscal year 2011-12, except as provided in subsection (9) ~~(7)~~ of this section, if the formula need calculated for a school district pursuant to subsections (1) through ~~(5)~~ (3) of this section is more than one hundred twelve percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, the formula need for such district shall equal one hundred twelve percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, except that the formula need shall not be reduced pursuant to this subsection for any district ~~(a)~~ receiving a student growth adjustment for the school fiscal year for which aid is being calculated. For state aid calculated for school fiscal year 2011-12, except as provided in subsection (7) of this section, if the formula need calculated for a school district pursuant to subsection (2) of this section is more than one hundred seven percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, the formula need for such district shall equal one hundred seven percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, except that the formula need shall not be reduced pursuant to this subsection for any district receiving a student growth adjustment for the school fiscal year for which aid is being calculated. ~~or (b) for school fiscal year 2008-09, for which the formula students for the certification of aid pursuant to section 79-1022 for school fiscal year 2008-09 minus the formula students for the certification of aid pursuant to section 79-1022 for school fiscal year 2007-08 equals at least the greater of twenty-five students or one percent of the formula students for the certification of aid pursuant to section 79-1022 for school fiscal year 2007-08.~~

~~(8)~~ (6) For purposes of subsections ~~(6) and (7)~~ (4) and (5) of this section, the formula need for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated shall be the formula need used in the final calculation of aid pursuant to section 79-1065 and for districts that were affected by a reorganization with an effective date in the calendar year preceding the calendar year in which aid is certified for the school fiscal year for which aid is being calculated, the formula need for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated shall be attributed to the affected school districts based on information provided to the department by the school districts or proportionally based on the adjusted valuation transferred if sufficient information has not been provided to the department.

~~(9)~~ (7) For state aid calculated for the first full school fiscal year of a new learning community, if the formula need calculated for a member school district pursuant to subsections (1) through ~~(6)~~ (4) of this section is less than the sum of the school district's state aid certified for the school fiscal year immediately preceding the first full school fiscal year of the learning community plus the school district's other actual receipts included in local system formula resources pursuant to section 79-1018.01 for such school fiscal year plus the product of the school district's general fund levy for such school fiscal year up to one dollar and five cents multiplied by the school district's assessed valuation for such school fiscal year, the formula need for such school district for the school fiscal year for which aid

is being calculated shall equal such sum.

Sec. 10. Section 79-1007.16, Revised Statutes Cumulative Supplement, 2010, is amended to read:

79-1007.16 ~~For school fiscal year 2008-09 and each school fiscal year thereafter, the~~ (1) The department shall calculate basic funding for each district as follows+ provided in this section.

~~(1)~~ (2) For state aid calculated for school fiscal years prior to school fiscal year 2011-12:

(a) A comparison group shall be established for each district consisting of the districts for which basic funding is being calculated, the five larger districts that are closest in size to the district for which basic funding is being calculated as measured by formula students, and the five smaller districts that are closest in size to the district for which basic funding is being calculated as measured by formula students. If there are not five districts that are larger than the district for which basic funding is being calculated or if there are not five districts that are smaller than the district for which basic funding is being calculated, the comparison group shall consist of only as many districts as fit the criteria. If more than one district has exactly the same number of formula students as the largest or smallest district in the comparison group, all of the districts with exactly the same number of formula students as the largest or smallest districts in the comparison group shall be included in the comparison group. If one or more districts have exactly the same number of formula students as the district for which basic funding is being calculated, all such districts shall be included in the comparison group in addition to the five larger districts and the five smaller districts. The comparison group shall remain the same for the final calculation of aid pursuant to section 79-1065;

~~(2)~~ (b) For districts with nine hundred or more formula students, basic funding shall equal the formula students multiplied by the average of the adjusted general fund operating expenditures per formula student for each district in the comparison group, excluding both the district with the highest adjusted general fund operating expenditures per formula student and the district with the lowest adjusted general fund operating expenditures per formula student of the districts in the comparison group; and

~~(3)~~ (c) For districts with fewer than nine hundred formula students, basic funding shall equal the product of the average of the adjusted general fund operating expenditures for each district in the comparison group, excluding both the district with the highest adjusted general fund operating expenditures and the district with the lowest adjusted general fund operating expenditures of the districts in the comparison group.

(3) For state aid calculated for school fiscal year 2011-12 and each school fiscal year thereafter:

(a) A comparison group shall be established for each district consisting of the districts for which basic funding is being calculated, the ten larger districts that are closest in size to the district for which basic funding is being calculated as measured by formula students, and the ten smaller districts that are closest in size to the district for which basic funding is being calculated as measured by formula students. If there are not ten districts that are larger than the district for which basic funding is being calculated or if there are not ten districts that are smaller than the district for which basic funding is being calculated, the comparison group shall consist of only as many districts as fit the criteria. If more than one district has exactly the same number of formula students as the largest or smallest district in the comparison group, all of the districts with exactly the same number of formula students as the largest or smallest districts in the comparison group shall be included in the comparison group. If one or more districts have exactly the same number of formula students as the district for which basic funding is being calculated, all such districts shall be included in the comparison group in addition to the ten larger districts and the ten smaller districts. The comparison group shall remain the same for the final calculation of aid pursuant to section 79-1065;

(b) For districts with nine hundred or more formula students, basic funding shall equal the formula students multiplied by the average of the adjusted general fund operating expenditures per formula student for each district in the comparison group, excluding both the two districts with the highest adjusted general fund operating expenditures per formula student and the two districts with the lowest adjusted general fund operating expenditures per formula student of the districts in the comparison group; and

(c) For districts with fewer than nine hundred formula students, basic funding shall equal the product of the average of the adjusted general fund operating expenditures for each district in the comparison group, excluding both the two districts with the highest adjusted general fund

operating expenditures and the two districts with the lowest adjusted general fund operating expenditures of the districts in the comparison group.

Sec. 11. Section 79-1007.18, Revised Statutes Cumulative Supplement, 2010, is amended to read:

79-1007.18 (1) ~~For school fiscal year 2008-09 and each school fiscal year thereafter, the~~ The department shall calculate an averaging adjustment for districts if the basic funding per formula student is less than the averaging adjustment threshold and the general fund levy for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated was at least ~~ninety-six cents per one hundred dollars of taxable valuation for aid calculated for school fiscal year 2008-09 and at least one dollar per one hundred dollars of taxable valuation, for aid calculated for school fiscal year 2009-10 and each school fiscal year thereafter.~~ For school districts that are members of a learning community, the general fund levy for purposes of this section includes both the common general fund levy and the school district general fund levy authorized pursuant to subdivisions (2)(b) and (2)(c) of section 77-3442. The averaging adjustment ~~for aid calculated for school fiscal year 2008-09 shall equal seventy-five percent of the product of the district's formula students multiplied by the percentage specified in subsection (4) of this section for such district of the difference between the averaging adjustment threshold minus such district's basic funding per formula student.~~ The averaging adjustment for aid calculated for school fiscal year 2009-10 and each school fiscal year thereafter shall equal the district's formula students multiplied by the percentage specified in this section for such district of the difference between the averaging adjustment threshold minus such district's basic funding per formula student.

~~(2)(a) For school fiscal year 2008-09, the averaging adjustment threshold shall equal the statewide average basic funding per formula student.~~

~~(b) For school fiscal year 2009-10 and each~~ (2)(a) For school fiscal year thereafter, 2010-11, the averaging adjustment threshold shall equal the lesser of (i) the averaging adjustment threshold for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated increased by the sum of the basic allowable growth rate plus five-tenths of one percent or (ii) the statewide average basic funding per formula student for the school fiscal year for which aid is being calculated.

(b) For school fiscal year 2011-12, the averaging adjustment threshold shall equal ninety-five percent of the lesser of (i) the averaging adjustment threshold for school fiscal year 2010-11 increased by the basic allowable growth rate or (ii) the statewide average basic funding per formula student for school fiscal year 2011-12.

(c) For school fiscal year 2012-13 and each school fiscal year thereafter, the averaging adjustment threshold shall equal the lesser of (i) the averaging adjustment threshold for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated increased by the basic allowable growth rate or (ii) the statewide average basic funding per formula student for the school fiscal year for which aid is being calculated.

(3) The percentage to be used in the calculation of an averaging adjustment shall be based on the general fund levy for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

~~(4) The percentages to be used in the calculation of averaging adjustments for school fiscal year 2008-09 shall be as follows:~~

~~(a) If such levy was at least ninety-six cents per one hundred dollars of taxable valuation but less than ninety-seven cents per one hundred dollars of taxable valuation, the percentage shall be ten percent;~~

~~(b) If such levy was at least ninety-seven cents per one hundred dollars of taxable valuation but less than ninety-eight cents per one hundred dollars of taxable valuation, the percentage shall be twenty percent;~~

~~(c) If such levy was at least ninety-eight cents per one hundred dollars of taxable valuation but less than ninety-nine cents per one hundred dollars of taxable valuation, the percentage shall be thirty percent;~~

~~(d) If such levy was at least ninety-nine cents per one hundred dollars of taxable valuation but less than one dollar per one hundred dollars of taxable valuation, the percentage shall be forty percent;~~

~~(e) If such levy was at least one dollar per one hundred dollars of taxable valuation but less than one dollar and one cent per one hundred dollars of taxable valuation, the percentage shall be fifty percent;~~

~~(f) If such levy was at least one dollar and one cent per one hundred dollars of taxable valuation but less than one dollar and two cents per one hundred dollars of taxable valuation, the percentage shall be sixty percent;~~

~~(g) If such levy was at least one dollar and two cents per one hundred dollars of taxable valuation but less than one dollar and three cents per one hundred dollars of taxable valuation, the percentage shall be seventy percent;~~

~~(h) If such levy was at least one dollar and three cents per one hundred dollars of taxable valuation but less than one dollar and four cents per one hundred dollars of taxable valuation, the percentage shall be eighty percent; and~~

~~(i) If such levy was at least one dollar and four cents per one hundred dollars of taxable valuation, the percentage shall be ninety percent.~~

~~(5) (4) The percentages to be used in the calculation of averaging adjustments for school fiscal year 2009-10 and each school fiscal year thereafter shall be as follows:~~

~~(a) If such levy was at least one dollar per one hundred dollars of taxable valuation but less than one dollar and one cent per one hundred dollars of taxable valuation, the percentage shall be fifty percent;~~

~~(b) If such levy was at least one dollar and one cent per one hundred dollars of taxable valuation but less than one dollar and two cents per one hundred dollars of taxable valuation, the percentage shall be sixty percent;~~

~~(c) If such levy was at least one dollar and two cents per one hundred dollars of taxable valuation but less than one dollar and three cents per one hundred dollars of taxable valuation, the percentage shall be seventy percent;~~

~~(d) If such levy was at least one dollar and three cents per one hundred dollars of taxable valuation but less than one dollar and four cents per one hundred dollars of taxable valuation, the percentage shall be eighty percent; and~~

~~(e) If such levy was at least one dollar and four cents per one hundred dollars of taxable valuation, the percentage shall be ninety percent.~~

Sec. 12. Section 79-1008.01, Revised Statutes Cumulative Supplement, 2010, as amended by section 5, Legislative Bill 18, One Hundred Second Legislature, First Session, 2011, is amended to read:

79-1008.01 For all school fiscal years except school fiscal year 2010-11, except as provided in sections 79-1008.02 ~~to 79-1010,~~ and 79-1009, each local system shall receive equalization aid in the amount that the total formula need of each local system, as determined pursuant to sections ~~79-1007.01 79-1007.04~~ 79-1007.04 to 79-1007.23 and ~~section~~ 79-1007.25, exceeds its total formula resources as determined pursuant to sections 79-1015.01 to 79-1018.01.

For school fiscal year 2010-11, except as provided in sections 79-1008.02 ~~to 79-1010,~~ and 79-1009, each local system shall receive equalization aid in the amount by which one hundred two and twenty-three hundredths percent of the total formula need of each local system, as determined pursuant to sections ~~79-1007.01 79-1007.04~~ 79-1007.04 to 79-1007.23 and ~~section~~ 79-1007.25, exceeds its total formula resources as determined pursuant to sections 79-1015.01 to 79-1018.01.

Sec. 13. Section 79-1008.02, Reissue Revised Statutes of Nebraska, is amended to read:

79-1008.02 A minimum levy adjustment shall be calculated and applied to any local system that has a general fund common levy for the fiscal year during which aid is certified that is less than the maximum levy, for such fiscal year for such local system, allowed pursuant to subdivision (2)(a) or (b) of section 77-3442 without a vote pursuant to section 77-3444 less five cents for learning communities and less ten cents for all other local systems. To calculate the minimum levy adjustment, the department shall subtract the local system general fund common levy for such fiscal year for such local system from the maximum levy allowed pursuant to subdivision (2)(a) or (b) of section 77-3442 without a vote pursuant to section 77-3444 less five cents for learning communities and less ten cents for all other local systems and multiply the result by the local system's adjusted valuation divided by one hundred. The minimum levy adjustment shall be added to the formula resources of the local system for the determination of equalization aid pursuant to section 79-1008.01. If the minimum levy adjustment is greater than or equal to the allocated income tax funds calculated pursuant to section 79-1005.01, ~~or 79-1005.02,~~ the local system shall not receive allocated income tax funds. If the minimum levy adjustment is less than the allocated income tax funds calculated pursuant to section 79-1005.01, ~~or 79-1005.02,~~ the local system shall receive allocated income tax funds in the amount of the difference between the allocated income tax funds calculated pursuant to section 79-1005.01 ~~or 79-1005.02~~ and the minimum levy adjustment. This section does not apply to the calculation of aid for a local system containing a learning community for the first school fiscal year for which aid is

calculated for such local system.

Sec. 14. Section 79-1009, Reissue Revised Statutes of Nebraska, is amended to read:

79-1009 (1) (a) A district shall receive net option funding if option students as defined in section 79-233 (i) were actually enrolled in the school year immediately preceding the school year in which the aid is to be paid or (ii) will be enrolled in the school year in which the aid is to be paid as converted contract option students.

(b) The determination of the net number of option students shall be based on (i) the number of students enrolled in the district as option students and the number of students residing in the district but enrolled in another district as option students as of the day of the fall membership count pursuant to section 79-528, for the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, and (ii) the number of option students that will be enrolled in the district or enrolled in another district as converted contract option students for the fiscal year in which the aid is to be paid.

(c) Net number of option students means the difference of the number of option students enrolled in the district minus the number of students residing in the district but enrolled in another district as option students.

(2) For purposes of this section, ~~+~~ ~~(a) For school fiscal years 2002-03 through 2007-08, net option funding shall be calculated by subtracting the temporary aid adjustment factor from the sum of the products of the net number of option students in each grade range multiplied by the statewide average cost grouping cost per student multiplied by the weighting factor for the corresponding grade range pursuant to section 79-1007.01; and (b) for school fiscal year 2008-09 and each school fiscal year thereafter, net option funding shall be the sum of the product of the net number of option students multiplied by the statewide average basic funding per formula student.~~

(3) A district's net option funding shall be zero if the calculation produces a negative result.

Payments made under this section shall be made from the funds to be disbursed under section 79-1005.01, ~~or 79-1005.02.~~

Such payments shall go directly to the option school district but shall count as a formula resource for the local system.

Sec. 15. For school fiscal years prior to school fiscal year 2027-28, a district which will have converted contract option students shall apply to the department on a form approved by the department within fifteen days after the effective date of this act for converted contract option students for school fiscal year 2011-12 and on or before November 1 of the calendar year preceding the beginning of all other school fiscal years for which there will be converted contract option students. The department shall determine the amount of tuition receipts from converted contracts to be excluded from the calculation of local system formula resources for each of the first two school fiscal years for which the converted contract will not be in effect and shall determine the number of converted contract option students to be attributed to the receiving district in the calculation of state aid for the first school fiscal year for which the converted contract will not be in effect, and the same number shall be attributed as optioning out of the resident school district. In the final calculation of state aid pursuant to section 79-1065, students that were attributed as optioning into or out of a district shall be replaced with the actual number from fall membership. The department shall notify the applicant district within thirty days after receipt of the completed application.

Sec. 16. Section 79-1015.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1015.01 (1) Local system formula resources shall include local effort rate yield which shall be computed as prescribed in this section.

~~(2) For school fiscal years prior to school fiscal year 2008-09, (a) For state aid certified pursuant to section 79-1022, the local effort rate shall be the maximum levy, for the school fiscal year for which aid is being certified, authorized pursuant to subdivision (2)(a) of section 77-3442 less ten cents; (b) for the final calculation of state aid pursuant to section 79-1065, the local effort rate shall be the rate which, when multiplied by the total adjusted valuation of all taxable property in local systems receiving equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act, will produce the amount needed to support the total formula need of such local systems when added to state aid appropriated by the Legislature and other actual receipts of local systems described in section 79-1018.01; and (c) the local effort rate yield shall be determined by multiplying each local system's total adjusted valuation by the local effort rate.~~

~~(3) For school fiscal year 2008-09 and~~ (2) For each school fiscal

~~year thereafter; except school fiscal years 2011-12 and 2012-13:~~ (a) For state aid certified pursuant to section 79-1022, the local effort rate shall be the maximum levy, for the school fiscal year for which aid is being certified, authorized pursuant to subdivision (2)(a) of section 77-3442 less five cents; (b) for the final calculation of state aid pursuant to section 79-1065, the local effort rate shall be the rate which, when multiplied by the total adjusted valuation of all taxable property in local systems receiving equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act, will produce the amount needed to support the total formula need of such local systems when added to state aid appropriated by the Legislature and other actual receipts of local systems described in section 79-1018.01; and (c) the local effort rate yield for such school fiscal years shall be determined by multiplying each local system's total adjusted valuation by the local effort rate.

(3) For school fiscal years 2011-12 and 2012-13: (a) For state aid certified pursuant to section 79-1022, the local effort rate shall be the maximum levy, for the school fiscal year for which aid is being certified, authorized pursuant to subdivision (2)(a) of section 77-3442 less one and five-hundredths of one cent; (b) for the final calculation of state aid pursuant to section 79-1065, the local effort rate shall be the rate which, when multiplied by the total adjusted valuation of all taxable property in local systems receiving equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act, will produce the amount needed to support the total formula need of such local systems when added to state aid appropriated by the Legislature and other actual receipts of local systems described in section 79-1018.01; and (c) the local effort rate yield for such school fiscal years shall be determined by multiplying each local system's total adjusted valuation by the local effort rate.

Sec. 17. Section 79-1017.01, Revised Statutes Cumulative Supplement, 2010, is amended to read:

~~79-1017.01 Local~~ For state aid calculated for school fiscal years prior to school fiscal year 2012-13, local system formula resources includes retirement aid determined under section 79-1028.03, allocated income tax funds determined for each such district pursuant to the provisions of section 79-1005.01, ~~or 79-1005.02,~~ and adjustments pursuant to section 79-1008.02.

For state aid calculated for school fiscal years 2012-13 and 2013-14, local system formula resources includes retirement aid determined under section 79-1028.03, allocated income tax funds determined for each district pursuant to section 79-1005.01, and adjustments pursuant to section 79-1008.02, and is reduced by amounts paid by the district in the most recently available complete data year as property tax refunds pursuant to or in the manner prescribed by section 77-1736.06.

For state aid calculated for school fiscal year 2014-15 and each school fiscal year thereafter, local system formula resources includes allocated income tax funds determined for each district pursuant to section 79-1005.01 and adjustments pursuant to section 79-1008.02 and is reduced by amounts paid by the district in the most recently available complete data year as property tax refunds pursuant to or in the manner prescribed by section 77-1736.06.

Sec. 18. Section 79-1018.01, Revised Statutes Cumulative Supplement, 2010, is amended to read:

79-1018.01 Except as otherwise provided in this section, local system formula resources include other actual receipts available for the funding of general fund operating expenditures as determined by the department for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid. ~~Receipts from the Community Improvements Cash Fund and receipts acquired pursuant to the Low-Level Radioactive Waste Disposal Act shall not be included.~~ Other actual receipts include:

- (1) Public power district sales tax revenue;
- (2) Fines and license fees;
- (3) Tuition receipts from individuals, other districts, or any other source except receipts derived from adult education, receipts derived from summer school tuition, receipts derived from early childhood education tuition, tuition receipts from converted contracts beginning with the calculation of state aid to be distributed in school fiscal year 2011-12, and receipts from educational entities as defined in section 79-1201.01 for providing distance education courses through the ~~Distance Education Council until July 1, 2008,~~ and the Educational Service Unit Coordinating Council ~~on and after July 1, 2008,~~ to such educational entities;
- (4) Transportation receipts;
- (5) Interest on investments;
- (6) Other miscellaneous noncategorical local receipts, not including

receipts from private foundations, individuals, associations, or charitable organizations;

(7) Special education receipts;

(8) Special education receipts and non-special education receipts from the state for wards of the court and wards of the state;

(9) All receipts from the temporary school fund. ~~Beginning with the calculation of aid for school fiscal year 2002-03 and each school fiscal year thereafter, receipts~~ Receipts from the temporary school fund shall only include (a) receipts pursuant to section 79-1035, to the extent that such receipts for the calculation of aid for school fiscal year 2018-19 and each school fiscal year thereafter are not returned to the temporary school fund pursuant to section 79-309.01, and (b) the receipt of funds pursuant to section 79-1036 for property leased for a public purpose as set forth in subdivision (1)(a) of section 77-202;

(10) Motor vehicle tax receipts received; ~~on or after January 1, 1998;~~

(11) Pro rata motor vehicle license fee receipts;

(12) Other miscellaneous state receipts excluding revenue from the textbook loan program authorized by section 79-734;

(13) Impact aid entitlements for the school fiscal year which have actually been received by the district to the extent allowed by federal law;

(14) All other noncategorical federal receipts;

(15) All receipts pursuant to the enrollment option program under sections 79-232 to 79-246;

(16) Receipts under the federal Medicare Catastrophic Coverage Act of 1988, as such act existed on May 8, 2001, as authorized pursuant to sections 43-2510 and 43-2511 but only to the extent of the amount the local system would have otherwise received pursuant to the Special Education Act;

(17) Receipts for accelerated or differentiated curriculum programs pursuant to sections 79-1106 to 79-1108.03; and

(18) Revenue received from the nameplate capacity tax distributed pursuant to section 77-6204.

Sec. 19. Section 79-1023, Revised Statutes Cumulative Supplement, 2010, as amended by section 8, Legislative Bill 18, One Hundred Second Legislature, First Session, 2011, is amended to read:

79-1023 (1) On or before March 10, 2010, on or before July 1, 2011, and on or before March 1 of each year thereafter, the department shall determine and certify to each school district budget authority for the maximum general fund budget of expenditures ~~minus the special education budget of expenditures~~ for the immediately following school fiscal year.

(2) ~~Except~~ For school fiscal years prior to school fiscal year 2011-12, except as provided in section 79-1028.01, no school district shall have a general fund budget of expenditures minus special grant funds and the special education budget of expenditures more than the greater of (a) the product of the difference of the general fund budget of expenditures minus special grant funds and the special education budget of expenditures for the immediately preceding school fiscal year multiplied by (i) except as otherwise provided in subdivision (a)(ii) of this subsection, the sum of one plus the local system's applicable allowable growth rate or (ii) for school fiscal year 2010-11, the sum of one plus seventy-five hundredths of one percent plus the local system's applicable allowable growth rate or (b)(i) except as otherwise provided in subdivision (b)(ii) of this subsection, the difference of one hundred twenty percent of formula need for such school fiscal year minus the product of the sum of one plus the basic allowable growth rate for such school fiscal year multiplied by the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year or (ii) for school fiscal years 2009-10 and 2010-11, the difference of one hundred sixteen and fifteen-hundredths percent of formula need for such school fiscal year minus the product of the sum of one plus the basic allowable growth rate for such school fiscal year multiplied by the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year.

(3) For school fiscal year 2011-12, except as provided in sections 79-1028.01, 79-1029, and 79-1030, each school district shall have budget authority for the general fund budget of expenditures equal to the greater of (a) the general fund budget of expenditures for school fiscal year 2010-11 minus exclusions for school fiscal year 2010-11 that fit within subsection (1) of section 79-1028.01 with the difference increased by an amount equal to one and one hundred fifteen thousandths percent of the formula need calculated for school fiscal year 2010-11, (b) the general fund budget of expenditures for school fiscal year 2010-11 minus exclusions for school fiscal year 2010-11

that fit within subsection (1) of section 79-1028.01 with the difference increased by an amount equal to any student growth adjustment calculated for school fiscal year 2011-12, or (c) one hundred ten percent of formula need for school fiscal year 2011-12 minus the special education budget of expenditures as filed on the school district budget statement on or before September 20 for school fiscal year 2010-11, which special education budget of expenditures is increased by the basic allowable growth rate for school fiscal year 2011-12.

(4) For school fiscal year 2012-13 and each school fiscal year thereafter, except as provided in sections 79-1028.01, 79-1029, and 79-1030, each school district shall have budget authority for the general fund budget of expenditures equal to the greater of (a) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by the basic allowable growth rate for the school fiscal year for which budget authority is being calculated, (b) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by an amount equal to any student growth adjustment calculated for the school fiscal year for which budget authority is being calculated, or (c) one hundred ten percent of formula need for the school fiscal year for which budget authority is being calculated minus the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year, which special education budget of expenditures is increased by the basic allowable growth rate for the school fiscal year for which budget authority is being calculated.

(5) For any school fiscal year for which the budget authority for the general fund budget of expenditures for a school district is based on a student growth adjustment, the budget authority for the general fund budget of expenditures for such school district shall be adjusted in future years to reflect any student growth adjustment corrections related to such student growth adjustment.

Sec. 20. Section 79-1025, Reissue Revised Statutes of Nebraska, is amended to read:

79-1025 The basic allowable growth rate for general fund expenditures other than expenditures for special education shall be the base limitation established under section 77-3446, and the allowable growth range shall be from the base limitation to three percent above the base limitation. The budget authority for special education for all classes of school districts shall be the actual anticipated expenditures for special education subject to the approval of the state board. Such budget authority and funds generated pursuant to such budget authority shall be used only for special education expenditures.

Sec. 21. Section 79-1028.01, Revised Statutes Cumulative Supplement, 2010, is amended to read:

79-1028.01 (1) For each school fiscal year, a school district may exceed its ~~maximum general fund budget of expenditures minus the special education budget of expenditures~~ budget authority for the general fund budget of expenditures as calculated pursuant to section 79-1023 for such school fiscal year by a specific dollar amount for the following exclusions:

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

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

(c) Expenditures pursuant to the Retirement Incentive Plan authorized in section 79-855 or the Staff Development Assistance authorized in section 79-856;

~~(d) Expenditures of incentive payments or base fiscal year incentive payments to be received in such school fiscal year pursuant to section 79-1011;~~

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

~~(f) Either (i) the first and second school fiscal years the district will be participating in Network Nebraska for the full school fiscal year or (ii) school fiscal year 2008-09, if the school district participated in Network Nebraska for all of school fiscal year 2007-08, for the difference of the estimated expenditures for such school fiscal year for telecommunications~~

~~services, access to data transmission networks that transmit data to and from the school district, and the transmission of data on such networks as such expenditures are defined by the department for purposes of the distance education and telecommunications allowance minus the dollar amount of such expenditures for the second school fiscal year preceding the first full school fiscal year the district participates in Network Nebraska;~~

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

~~(h) (f) Expenditures in school fiscal years 2009-10 through 2013-14 2016-17 to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent;~~

~~(i) (g) Expenditures in school fiscal years 2009-10 through 2013-14 2016-17 to pay for school district contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to the Class V School Employees Retirement System to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent;~~

~~(j) (h) Expenditures for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009, or occurring on or after July 1, 2011, and on or before June 30, 2013;~~

~~(k) Expenditures for new elementary attendance sites in the first year of operation or the first year of operation after being closed for at least one school year if such elementary attendance site will most likely qualify for the elementary site allowance in the immediately following school fiscal year as determined by the state board; and~~

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

~~(j) The special education budget of expenditures; and~~

~~(k) Expenditures of special grant funds.~~

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

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

~~(b) The first school fiscal year the district will be participating in Network Nebraska for the full school fiscal year, for the difference of the estimated expenditures for such school fiscal year for telecommunications services, access to data transmission networks that transmit data to and from the school district, and the transmission of data on such networks as such expenditures are defined by the department for purposes of the distance education and telecommunications allowance minus the dollar amount of such expenditures for the second school fiscal year preceding the first full school fiscal year the district participates in Network Nebraska; and~~

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

~~(2) (3) The state board shall approve, deny, or modify the amount allowed for any exception to the maximum general fund budget of expenditures minus the special education budget of expenditures pursuant to this section. the amount allowed for any exclusions to the budget authority for the general fund budget of expenditures pursuant to this section.~~

Sec. 22. Section 79-1029, Reissue Revised Statutes of Nebraska, is amended to read:

79-1029 ~~(1)~~ For school fiscal years prior to school fiscal year 2008-09, a Class II, III, IV, V, or VI district may exceed the basic allowable growth rate prescribed in section 79-1025 upon an affirmative vote of at least seventy-five percent of the board. The total growth shall not exceed the applicable allowable growth rate certified for the local system under section 79-1026 plus one percent. The vote shall be taken at a public meeting of the board following a special public hearing called for the purpose of receiving testimony on such proposed increase. The board shall give at least five

calendar days' notice of such public hearing and shall publish such notice at least once in a newspaper of general circulation in the local system.

(2) For school fiscal years prior to school fiscal year 2008-09, a Class II, III, IV, V, or VI district may exceed the applicable allowable growth rate prescribed in section 79-1026 by an amount approved by a majority of legal voters voting on the issue at a primary, general, or special election called for such purpose upon the recommendation of the board or upon the receipt by the county clerk or election commissioner of a petition requesting an election signed by at least five percent of the legal voters of the district. The recommendation of the board or the petition of the legal voters shall include the amount and percentage by which the board would increase its general fund budget of expenditures for the ensuing school year over and above the current year's general fund budget of expenditures. The county clerk or election commissioner shall place the question on the primary or general election ballot or call for a special election on the issue after the receipt of such board recommendation or legal voter petition. The election shall be held pursuant to the Election Act or section 77-3444, and all costs for a special election shall be paid by the district. A vote to exceed the applicable allowable growth rate may be approved on the same question as a vote to exceed the levy limits provided in section 77-3444.

(3) For school fiscal year 2008-09 and each school fiscal year thereafter, a A Class II, III, IV, V, or VI district may exceed the maximum general fund budget of expenditures minus the special education budget of expenditures budget authority for the general fund budget of expenditures prescribed in section 79-1023 by an amount approved by a majority of legal voters voting on the issue at a primary, general, or special election called for such purpose upon the recommendation of the board or upon the receipt by the county clerk or election commissioner of a petition requesting an election, signed by at least five percent of the legal voters of the district. The recommendation of the board or the petition of the legal voters shall include the amount by which the board would increase its general fund budget of expenditures for the ensuing school year over and above the maximum general fund budget of expenditures minus the special education budget of expenditures budget authority for the general fund budget of expenditures prescribed in section 79-1023. The county clerk or election commissioner shall place the question on the primary or general election ballot or call for a special election on the issue after the receipt of such board recommendation or legal voter petition. The election shall be held pursuant to the Election Act or section 77-3444, and all costs for a special election shall be paid by the district. A vote to exceed the maximum general fund budget of expenditures minus the special education budget of expenditures budget authority for the general fund budget of expenditures prescribed in section 79-1023 may be approved on the same question as a vote to exceed the levy limits provided in section 77-3444.

Sec. 23. Section 79-1030, Revised Statutes Cumulative Supplement, 2010, is amended to read:

79-1030 A Class II, III, IV, V, or VI district may choose not to increase its general fund budget of expenditures by the full amount of budget authority for the general fund budget of expenditures as calculated pursuant to ~~sections 79-1023 and 79-1026.01.~~ section 79-1023. In such cases, the department shall calculate the amount of unused budget authority which shall be carried forward to future budget years. The amount of unused budget authority that may be used by a district in a single school fiscal year to increase its general fund budget of expenditures above the budget authority for the general fund budget of expenditures as calculated pursuant to section 79-1023 shall be limited to two percent of the difference of the general fund budget of expenditures minus the sum of special grant funds, the special education budget of expenditures, and exceptions pursuant to subsection (1) of section 79-1028.01 for the immediately preceding school fiscal year. ~~so a Class II, III, IV, V, or VI district may increase its general fund budget of expenditures in future budget years by the amount of such total unused budget authority.~~

Sec. 24. Section 79-1103, Revised Statutes Cumulative Supplement, 2010, is amended to read:

79-1103 (1)(a) The State Department of Education shall establish and administer the Early Childhood Education Grant Program. Upon the effective date of an endowment agreement, administration of the Early Childhood Education Grant Program with respect to programs for children from birth to age three shall transfer to the board of trustees. If there is no endowment agreement in effect, the department shall request proposals in accordance with this section for all early childhood education programs from school districts, individually or in cooperation with other school districts or educational

service units, working in cooperation with existing nonpublic programs which meet the requirements of subsection (2) of section 79-1104. If there is an endowment agreement in effect, the board of trustees shall administer the Early Childhood Education Grant Program with respect to programs for children from birth to age three pursuant to section 79-1104.02 and the department shall continue to administer the Early Childhood Education Grant Program with respect to other prekindergarten programs pursuant to sections 79-1101 to 79-1104.05. All administrative procedures of the board of trustees, including, but not limited to, rules, grant applications, and funding mechanisms, shall harmonize with those established by the department for other prekindergarten programs.

(b) The first priority shall be for (i) continuation grants for programs that received grants in the prior school fiscal year and for which the state aid calculation pursuant to the Tax Equity and Educational Opportunities Support Act does not include early childhood education students, in an amount equal to the amount of such grant, except that if the grant was a first-year grant the amount shall be reduced by thirty-three percent, (ii) continuation grants for programs for which the state aid calculation pursuant to the act includes early childhood education students, in an amount equal to the amount of the grant for the school fiscal year prior to the first school fiscal year for which early childhood education students were included in the state aid calculation for the school district's local system minus the calculated state aid amount, and (iii) for school fiscal year 2007-08, continuation grants for programs for which the state aid calculation pursuant to the act includes early childhood education students, but such state aid calculation does not result in the school district receiving any equalization aid, in an amount equal to the amount of the grant received in school fiscal year 2006-07. The calculated state aid amount shall be calculated by multiplying the basic funding per formula student for the school district by the formula students attributed to the early childhood education programs pursuant to the Tax Equity and Educational Opportunities Support Act.

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

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

(e) Programs serving children who will be eligible to attend kindergarten the following school year shall be accounted for separately for grant purposes from programs serving younger children, but the two types of programs may be combined within the same classroom to serve multi-age children. Programs that receive grants for school fiscal years prior to school fiscal year 2005-06 to serve both children who will be eligible to attend kindergarten the following school year and younger children shall account for the two types of programs separately for grant purposes beginning with school year 2005-06 and shall be deemed to have received grants prior to school fiscal year 2005-06 for each year that grants were received for the types of programs representing the age groups of the children served.

(2) Each program proposal which is approved by the department shall include (a) a planning period, (b) an agreement to participate in periodic evaluations of the program to be specified by the department, (c) evidence that the program will be coordinated or contracted with existing programs, including those listed in subdivision (d) of this subsection and nonpublic programs which meet the requirements of subsection (2) of section 79-1104, (d) a plan to coordinate and use a combination of local, state, and federal funding sources, including, but not limited to, programs for children with disabilities below five years of age funded through the Special Education Act, the Early Intervention Act, funds available through the flexible funding provisions under the Special Education Act, the federal Head Start program, 42 U.S.C. 9831 et seq., the federal Even Start Family Literacy Program, 20 U.S.C. 6361 et seq., Title I of the federal Improving America's Schools Act of 1994, 20 U.S.C. 6301 et seq., and child care assistance through

the Department of Health and Human Services, (e) a plan to use sliding fee scales and the funding sources included in subdivision (d) of this subsection to maximize the participation of economically and categorically diverse groups and to ensure that participating children and families have access to comprehensive services, (f) the establishment of an advisory body which includes families and community members, (g) the utilization of appropriately qualified staff, (h) an appropriate child-to-staff ratio, (i) appropriate group size, (j) compliance with minimum health and safety standards, (k) appropriate facility size and equipment, (l) a strong family development and support component recognizing the central role of parents in their children's development, (m) developmentally and culturally appropriate curriculum, practices, and assessment, (n) sensitivity to the economic and logistical needs and circumstances of families in the provision of services, (o) integration of children of diverse social and economic characteristics, (p) a sound evaluation component, including at least one objective measure of child performance and progress, (q) continuity with programs in kindergarten and elementary grades, (r) instructional hours that are similar to or less than the instructional hours for kindergarten except that a summer session may be offered, (s) well-defined language development and early literacy emphasis, including the involvement of parents in family literacy activities, (t) a plan for ongoing professional development of staff, and (u) inclusion of children with disabilities as defined in the Special Education Act, all as specified by rules and regulations of the department in accordance with sound early childhood educational practice.

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

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

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

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

Sec. 25. Original sections 79-413, 79-536, 79-1008.02, 79-1009, 79-1015.01, 79-1025, and 79-1029, Reissue Revised Statutes of Nebraska, sections 77-3446, 79-1003.01, 79-1005.01, 79-1007.10, 79-1007.11, 79-1007.16, 79-1007.18, 79-1017.01, 79-1018.01, 79-1028.01, 79-1030, and 79-1103, Revised Statutes Cumulative Supplement, 2010, and sections 79-1001, 79-1003, 79-1008.01, and 79-1023, Revised Statutes Cumulative Supplement, 2010, as amended by sections 1, 2, 5, and 8, respectively, Legislative Bill 18, One Hundred Second Legislature, First Session, 2011, are repealed.

Sec. 26. The following sections are outright repealed: Sections 79-1005.02, 79-1007.01, 79-1007.02, 79-1010, 79-1026, 79-1028, and 79-1083.03, Reissue Revised Statutes of Nebraska, sections 79-1007.19 and 79-1007.24, Revised Statutes Cumulative Supplement, 2010, and section 79-1026.01, Revised Statutes Cumulative Supplement, 2010, as amended by section 9, Legislative Bill 18, One Hundred Second Legislature, First Session, 2011.

Sec. 27. Since an emergency exists, this act takes effect when passed and approved according to law.