

LEGISLATIVE BILL 348

Approved by the Governor June 10, 1993

Introduced by Withem, 14

AN ACT relating to education; to amend sections 17-601.01, 17-601.02, 79-201.01 to 79-201.03, 79-307, 79-321.03, 79-435, 79-464, 79-507, 79-521, 79-803.03, 79-803.08, 79-803.09, 79-1281, 79-1281.01, 79-1286, 79-1430 to 79-1434, 79-2110, 79-3309, 81-501.01, 81-525, 81-528, and 81-529, Reissue Revised Statutes of Nebraska, 1943, and sections 10-716.01, 77-3439, 79-101, 79-101.01, 79-330, 79-402.11, 79-426.28, 79-433, 79-434, 79-444, 79-488.04, 79-490, 79-4.207, 79-547.03, 79-803.07, 79-1247.07, 79-1282 to 79-1285, 79-1303, 79-1421, 79-1422, 79-1423, 79-1429, 79-2210, 79-2801, 79-2804, 79-2812, 79-2842, 79-2844, 79-2845, 79-3354, 79-3403, 79-3405, 79-3406, 79-3408 to 79-3410, 79-3703, 79-3806, 79-3822, 79-3824, 81-502, 81-503, 81-505, and 81-551, Revised Statutes Supplement, 1992; to change provisions relating to bonds, nomination of school board candidates, powers and duties of educational service unit boards, year-round school, filling of vacancies on school boards, procedures to change boundaries, submission of a report, student services, bonded indebtedness, taxable property and valuation, taxation for abatement of environmental hazards and for accessibility barrier elimination, budget statements, entrance requirements, transportation of children, sale of property, the Professional Practices Commission, disciplinary actions, applicability of the Nebraska Budget Act, apportionment of school funds, telecommunications resources, private postsecondary career schools, return of depositions and exhibits, the enrollment option program, evaluation of early childhood education pilot projects, and the Tax Equity and Educational Opportunities Support Act; to define and redefine terms; to create a fund and committees; to authorize sponsorship of certain organizations; to transfer a program to the State Fire Marshal and authorize fees; to eliminate a program, an authorization for certain contracts, and a provision transferring a program; to harmonize provisions; to provide operative dates; to repeal the original sections, and also sections 79-321.02, 79-321.04, 79-341, and 79-403.04, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

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

Section 1. That section 10-716.01, Revised Statutes Supplement, 1992, be amended to read as follows:

10-716.01. Following the affiliation of two or more school districts, bonds may be issued pursuant to sections 10-701 to 10-716 for purposes of capital additions to or improvements or replacement of high school, ~~middle school, or junior high school~~ facilities ~~which will be used by Class I district students residing in an affiliated Class I district~~ upon the approval of a majority of the legal voters of the high school district and affiliated Class I district or districts or portions thereof voting on the issue as a combined voting unit. The bond levy ~~applicable to property within an affiliated Class I district which is~~ necessary to redeem the bonds issued pursuant to this section shall be prorated to reflect projected student utilization of ~~based on the grade levels of affiliated Class I students who, pursuant to section 79-486, are provided instruction at~~ planned facilities based on criteria established by the State Department of Education if the facility will be used by elementary as well as high school students. The pro rata share of the costs of the facility to be assigned to the high school, ~~middle school, or junior high facilities which will be used by Class I students residing in an affiliated Class I district~~ program shall be included in the statement required to be filed pursuant to section 10-707.

Sec. 2. That section 17-601.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-601.01. In any village ~~or Class II school district~~, the governing body ~~of the village or school district~~ may, by ordinance, ~~or resolution, respectively~~; call a caucus for the purpose of nomination of candidates for offices to be filled in the village ~~or school~~ election. Such caucus shall be held at least ten days before the filing deadline for such election, and the governing body calling the caucus shall publish notice of such caucus in at least one newspaper of general circulation in the county at least once each week for two consecutive weeks before such caucus.

Sec. 3. That section 17-601.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-601.02. The ~~chairman~~ chairperson of the caucus at which candidates are nominated shall notify in writing the village clerk ~~or the secretary of the board of education~~ of the candidates so nominated, not later than two days following the caucus. The village clerk ~~or secretary of the board of education~~ shall then notify the persons so nominated of their nomination, such notification to take place not later than five days after such caucus. No candidate so nominated shall have his ~~or her~~ name placed upon the ballot unless, not more than ten days after the holding of such caucus, he ~~shall have filed~~ or she files with the village clerk ~~or secretary of the board of education~~ a written statement accepting the nomination of the caucus; and ~~shall have paid~~ pays the filing fee, if any, for the office for which he ~~or she~~ was nominated.

Sec. 4. That section 77-3439, Revised Statutes Supplement, 1992, be amended to read as follows:

77-3439. (1) A governing body may increase the

anticipated aggregate receipts from property taxes by up to five percent more than the amount permitted by section 77-3438 upon an affirmative vote of at least seventy-five percent of the governing body. Such vote shall be taken at a public meeting of the governing body following a special public hearing called for the purpose of receiving testimony on such proposed increase.

(2) In addition to the increase permitted by subsection (1) of this section, ~~(a)~~ a Community College Board of Governors may increase the anticipated aggregate receipts from property taxes by the amount necessary to pay for accessibility barrier elimination project costs and for abatement of environmental hazards as such terms are defined in section 79-4,207 and (b) the board of an educational service unit may increase the anticipated aggregate receipts from property taxes for purposes of section 49 of this act. Such increase shall be upon an affirmative vote of a majority of the board of governors. Such vote shall be taken at a public meeting of the board of governors following (a) (i) a hearing called pursuant to subsection (1) of this section at which there is an opportunity for testimony on the increase proposed under this subsection or ~~(b)~~ (ii) a special public hearing called for the purpose of receiving testimony on the increase proposed under this subsection.

(3) The governing body, ~~or~~ board of governors, or board of an educational service unit shall give at least seven calendar days' notice of a public hearing called under subsection (1) or (2) of this section and shall publish such notice at least once in a newspaper of general circulation in the political subdivision.

Sec. 5. That section 79-101, Revised Statutes Supplement, 1992, be amended to read as follows:

79-101. ~~As used in~~ For purposes of Chapter 79:

(1) School district shall mean the territory under the jurisdiction of a single school board authorized by Chapter 79;

(2) ~~school~~ School shall mean a school under the jurisdiction of a school board authorized by Chapter 79;

(3) ~~legal~~ Legal voters or electors shall mean all who are eligible to vote at an election for school district officers;

(4) Prekindergarten programs shall mean all early childhood programs provided for children who have not reached the age of five by October 15 of the current school year;

(5) Elementary elementary grades shall mean grades kindergarten through eight, inclusive;

(6) High (5) high school grades shall mean all grades above the eighth grade;

(7) School (6) school year shall mean (a) for elementary grades other than kindergarten, the time equivalent to at least one thousand thirty-two instructional hours and (b) for high school grades, the time equivalent to at least one thousand eighty instructional hours;

(8) Instructional (7) instructional hour shall mean a period of time, at least sixty minutes, which is actually used for the instruction of students; ~~The State Board of Education shall adopt and~~

~~promulgate rules and regulations to define school day, school month, and other appropriate units of the school calendar; (8) deaf~~

(9) Deaf pupil shall mean any person of sound mind who by reason of defective hearing cannot profitably be educated in the public schools;

(10) Teacher ~~(9) teacher~~ shall mean any certified employee who is regularly employed for the instruction of pupils in the public schools;

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

(12) School ~~(11) school~~ board or board of education shall mean the governing body of any school district; and

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

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

Sec. 6. That section 79-101.01, Revised Statutes Supplement, 1992, be amended to read as follows:

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

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

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

(2) Beginning January 1, 1992, any school district boundaries changed by ~~any of~~ the means provided by Nebraska law, including the methods provided by sections 79-102.01, 79-102.02, 79-402, 79-402.03 to 79-402.10, 79-402.17, 79-402.19, 79-402.20, 79-403 to 79-403.03, 79-406, 79-407, 79-408, 79-408.01 to 79-408.03, 79-409, 79-420, 79-421, 79-426.01 to 79-426.19, 79-426.23 to 79-426.26, 79-426.28, 79-480 to 79-482, 79-486, 79-512, 79-533, 79-603, 79-701, 79-1107, and 79-1108 but excluding the method provided by sections 79-801 to 79-810.01, shall be made only upon an order issued by the

county superintendent. If the boundaries so changed are in more than one county, such order shall be issued jointly by the county superintendents of all counties involved. The order shall be certified to the county clerk of each county in which boundaries are changed and shall also be certified to the State Department of Education. Such order shall be issued no later than between January 1 and June 1 of the current school fiscal year and shall have an effective date no later than August 1 of the current school fiscal same year. For purposes of the school district boundary map provided by the county superintendent pursuant to section 23-3306, determining school district counts pursuant to section 79-458, calculating nonresident high school tuition pursuant to section 79-4,102, and calculating state aid allocations pursuant to the Tax Equity and Educational Opportunities Support Act, any change in school district boundaries with an effective date between June 1 and August 1 of any year shall be considered effective June 1 of such year.

(3) Unless otherwise provided by state law or by the terms of an affiliation or reorganization plan or petition which are consistent with state law, all assets, including budget authority as provided in sections 79-3814 to 79-3821, and liabilities, except bonded obligations, of school districts merged, dissolved, or annexed shall be transferred to the receiving district or districts on the basis of the proportionate share of assessed valuation received at the time of reorganization. When a Class II, III, IV, or V school district becomes a Class I school district:

(a) Which becomes part of a Class VI district which offers instruction in grades seven through twelve, 44.8276 percent of the Class II, III, IV, or V district's assets and liabilities shall be transferred to the new Class I district and the remainder shall be transferred to the Class VI district or districts of which the Class I district becomes a part on the basis of the proportionate share of assessed valuation each high school district received at the time of such change in class of district;

(b) Which is affiliated or becomes part of a Class VI district which offers instruction in grades nine through twelve, 61.3793 percent of the Class II, III, IV, or V school district's assets and liabilities shall be transferred to the new Class I district and the remainder shall be transferred to the Class VI district or districts of which the Class I district becomes a part and to the high school district or districts with which the Class I district is affiliated on the basis of the proportionate share of assessed valuation each high school district received at the time of such change in class of district; or

(c) Which is not affiliated and is not part of any Class VI district, the new Class I district shall retain 61.3793 percent of the Class II, III, IV, or V school district's budget authority as provided in sections 79-3814 to 79-3821.

Sec. 7. That section 79-201.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-201.01. ~~The purpose of sections 79-201.01 to 79-201.09 is~~ It is the intent of the Legislature to promote increased efficiency in the utilization of public schoolhouses and other school facilities by providing

for a program of year-round operation of the public schools of this state. The Legislature finds that the cost of education is substantially increased when schoolhouses sit idle for three months of the year and that the rural and pioneer conditions which dictated summer closing of public schools no longer prevail in many of the school districts of the state.

Sec. 8. That section 79-201.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-201.02. Commencing July 1, 1974 1993, any public school district in this state may convert any or all of the schools in the district to year-round operation under the provisions of sections 79-201.01 to 79-201.09 79-201.03 upon an affirmative vote of at least seventy-five percent of the school board. The vote shall be taken at a public meeting of the school board following a special public hearing called for the purpose of receiving testimony on such conversion. The school board shall give at least seven calendar days' notice of the time, place, and purpose of such hearing and shall publish such notice at least once in a newspaper of general circulation in the school district. Such schools shall meet all State Board of Education rules and regulations pertaining to accreditation.

Sec. 9. That section 79-201.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-201.03. No public school district shall convert to a year-round operation without obtaining approval therefor by notifying the State Board of Education based upon a determination that the plans therefor comply with the provisions of sections 79-201.01 to 79-201.09 and the rules and regulations adopted by the State Board of Education pursuant thereto 79-201.03.

Sec. 10. That section 79-307, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-307. The State Department of Education shall prescribe forms for making all reports and regulations for all proceedings under the general school laws of the state. The department may establish procedures for submission of forms on electronic media or via telecommunications systems. The department may require the use of a personally identifiable number, which it will assign, on electronic data submissions in lieu of requiring authorized signatures on paper forms.

Sec. 11. That section 79-321.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-321.03. The State Board of Education, ~~through a Program of Student Personnel Services,~~ is directed to provide supervision and leadership to assure that appropriate student personnel services are provided by the schools and other agencies of this state. Student personnel services shall include school guidance, counseling, ~~and testing services, school psychological, psychometric and psychiatric services, school social work services,~~ and all other necessary and appropriate noninstructional services for students. The State Department of Education shall provide general supervision and coordination of student personnel services as such services relate to instructional and educational services

provided by schools and other agencies.

Sec. 12. That section 79-330, Revised Statutes Supplement, 1992, be amended to read as follows:

79-330. (1) The State Board of Education shall replace the State Board of Vocational Education and, when acting as the State Board of Vocational Education, shall assume the duties and powers provided in sections 79-1419 to ~~79-1434~~ 79-1429.

(2) The Commissioner of Education shall be the executive secretary of the State Board of Vocational Education, and upon the recommendation of the commissioner, the State Board of Vocational Education shall appoint an assistant commissioner of education in charge of vocational education.

Sec. 13. That section 79-402.11, Revised Statutes Supplement, 1992, be amended to read as follows:

79-402.11. (1) Bonded indebtedness ~~incurred~~ approved by voters prior to any change in school district boundary lines pursuant to sections 79-402 and 79-402.03 to 79-402.10 shall remain the obligation of the school district voting such bonds unless otherwise specified in the petitions. When a district is dissolved by petitions and the area is attached to two or more districts, the petitions shall specify the disposition of assets and unbonded obligations of the original district.

(2) Bonded indebtedness ~~incurred~~ approved by voters for high school facilities prior to the establishment of an affiliation shall remain the obligation of the high school district unless otherwise specified in the petitions.

Sec. 14. That section 79-426.28, Revised Statutes Supplement, 1992, be amended to read as follows:

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

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

Sec. 15. That section 79-433, Revised Statutes Supplement, 1992, be amended to read as follows:

79-433. (1) It shall be the duty of the county clerk of any county in which a ~~fractional~~ part of a joint school district is located, on or before the date prescribed in section 13-509, to certify the taxable valuation of all taxable property of such ~~fractional~~ part of the joint district to the clerk of the headquarters county in which the schoolhouse or the administrative office of the school district is located.

(2) It shall be the duty of the county clerk of any county in

which a part of a joint affiliated school system is located, on or before the date prescribed in section 13-509, to certify the taxable valuation of all taxable property of such part of the joint affiliated school system to the clerk of the headquarters county in which the schoolhouse or the administrative office of the high school district is located.

Sec. 16. That section 79-434, Revised Statutes Supplement, 1992, be amended to read as follows:

79-434. (1) The county board of the county in which is located the schoolhouse or the administrative office of any joint school district shall make a levy for the school district, as may be necessary, and the county clerk of that headquarters county shall certify the levy, on or before the date prescribed in section 77-1601, to the county clerk of each county in which is situated any portion of the joint school district. This section shall apply to all taxes levied on behalf of school districts, including, but not limited to, taxes authorized by sections 10-304, 10-711, 10-716.01, 77-1601, 79-424, 79-438.12, 79-4.207, 79-542, 79-547.04, 79-607, 79-810, 79-903, 79-1007, 79-1007.02, 79-1052, and 79-1435.03.

(2) The county board of the county in which is located the schoolhouse or the administrative office of the high school district of a joint affiliated school system shall make a levy for the joint affiliated school system, as may be necessary, and the county clerk of that headquarters county shall certify the levy, on or before the date prescribed in section 77-1601, to the county clerk of each county in which is situated any portion of the joint affiliated school system. This section shall apply to all taxes levied on behalf of affiliated school systems, including, but not limited to, taxes authorized by sections 10-716.01, 79-438.12, and 79-4.207.

Sec. 17. That section 79-435, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-435. At the time the budget statement is certified to the levying board, each school board or board of education shall deliver to the county superintendent; and ~~also to~~ the county clerk of the headquarters county for the use of the county board of equalization of each county in which any part of the district is situated; a copy of its adopted budget statement.

Sec. 18. That section 79-444, Revised Statutes Supplement, 1992, be amended to read as follows:

79-444. ~~(1) The board of education of any class of school district shall not admit any child to the first grade of any school of such school district unless such child has reached the age of six years or will reach such age on or before October 15 of the current year, except that in the event any child has successfully completed the kindergarten or beginner grade such child may enter the first grade of any such school regardless of age.~~

(2) The (1) Except as provided in subsection (2) of this section, the board of education of any class of school district shall not admit any child into the kindergarten or beginner grade of any school of such school district unless ~~(a)~~ such child has reached the age of five

years or will reach such age on or before October 15 of the current year, ~~or (b) such child has demonstrated through recognized testing procedures approved by the State Board of Education that he or she is capable of carrying the work of these grades:~~

(2) The board of education may admit a child who will reach the age of five between October 16 and February 1 of the current school year if the parent or guardian requests such entrance and provides an affidavit stating that (a) the child attended kindergarten in another jurisdiction in the current school year or (b) the family anticipates a relocation to another jurisdiction within the current year.

(3) The board of education may require a birth certificate prior to entrance of a child into the beginner grade and shall require evidence of a physical examination by a qualified physician within six months prior to the entrance of a child into the beginner grade and the seventh grade or, in the case of a transfer from out of state, to any other grade of the local school, except that no such physical examination shall be required of any child whose parent or guardian objects in writing. The cost of such physical examination shall be borne by the parent or guardian of each child who is examined.

(4) Any board of education in its discretion may (a) establish and financially support programs, including programs providing before-and-after-school or preschool services, to which attendance shall be voluntary and which the board may deem beneficial to the education of prekindergarten or school-age children and (b) provide or financially support transportation for children to, from, or to and from early childhood programs as defined in ~~subdivision (3) of~~ section 71-1910. The board may charge a fee, not to exceed the actual cost, for providing such programs and services but may waive such fee on the basis of need. This section shall not be construed to allow any school district to fail to meet its responsibilities under the Special Education Act.

Sec. 19. That section 79-464, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-464. (1) A person filling a vacancy in the district board or board of education of a Class I school district, appointed by the remaining members of the board to fill such vacancy, shall hold office until the beginning of the next school year. A board member of a Class I school district elected to fill a vacancy at a regular or special meeting shall serve for the remainder of the unexpired term and until a successor is elected and qualified.

(2) Any vacancy on the district board or board of education of a Class II, III, IV, V, or VI school district resulting from any cause other than the expiration of a term shall be temporarily filled by appointment by the remaining members of the board of a legally qualified person. The remainder of the unexpired term shall be filled by a person nominated at the next primary election or caucus pursuant to section 79-803.03 and elected at the following general election.

(3) If any district board or board of education fails to fill a vacancy on such board, the vacancy may be filled by election at a special

school district meeting or election called for that purpose, which meeting or election shall be called in the same manner and subject to the same regulations as other special school district meetings and elections.

(4) If there is a vacancy in the offices of a legal majority of a school board, there shall be a special school district election conducted by the Secretary of State to fill such vacancies.

Sec. 20. That section 79-488.04, Revised Statutes Supplement, 1992, be amended to read as follows:

79-488.04. Except as otherwise provided in this section, the school board of any school district may authorize the use of buses belonging to such district for the transportation of public school children residing outside such district. A fee sufficient to pay ~~all~~ the additional costs of such transportation shall be charged each person so transported. The school board shall prepare a schedule of all such fees charged, and a copy of such schedule shall be filed in the office of the county superintendent of schools for the county in which such district is maintained. ~~The individual members of the school board shall be personally liable for any expense incurred by the district if the fees so charged are insufficient to cover the additional cost incurred in furnishing such transportation, except that such penalty shall not apply the first two years of operation. The cost of school bus operation shall be determined by dividing the actual cost of the total bus operation plus one fifth of the original cost of the bus for depreciation by the total number of miles traveled by each pupil for the average of the two school years immediately preceding. This section shall not apply to an agreement regarding reimbursement payments for transportation entered into pursuant to section 79-3410.~~

Sec. 21. That section 79-490, Revised Statutes Supplement, 1992, be amended to read as follows:

79-490. When no other means of free transportation is provided to a student attending a public school, an allowance for transportation shall be made to the family of such student by the district in which such family resides as follows:

(1) When a student attends an elementary school in his or her own district and lives more than four miles from the public schoolhouse in such district, there shall be paid two hundred eighty-five percent of the mileage rate provided in section 81-1176 for each mile actually and necessarily traveled on each day of attendance by which the distance traveled one way from the residence of such student to the schoolhouse exceeds three miles;

(2) When a student is required to attend an elementary school outside of his or her own district and lives more than four miles from such elementary school, there shall be paid two hundred eighty-five percent of the mileage rate provided in section 81-1176 for each mile actually and necessarily traveled on each day of attendance by which the distance traveled one way from the residence of such student to the schoolhouse exceeds three miles;

(3) When a student attends a secondary school in his or her

own Class II or III school district and lives more than four miles from the public schoolhouse, there shall be paid two hundred eighty-five percent of the mileage rate provided in section 81-1176 for each mile actually and necessarily traveled on each day of attendance by which the distance traveled one way from the residence of such student to the schoolhouse exceeds three miles; and

(4) When a student, other than a student in grades ten through twelve in a Class V district, attends an elementary or junior high school in his or her own Class V district and lives more than four miles from the public schoolhouse in such district, there shall be paid for each day of attendance two hundred eighty-five percent of the mileage rate provided in section 81-1176 for each mile actually and necessarily traveled by which the distance of the residence of such student from the schoolhouse exceeds three miles.

The local school board may authorize school-provided transportation to any student who does not qualify under the mileage requirements of subdivisions (1) through (4) of this section, but a fee may be charged to the parent or guardian of the student for such service. An affiliated high school district system may provide free transportation or pay the allowance described in this section for high school students residing in an affiliated Class I district. No transportation payments shall be made to a family for mileage not actually traveled by such family. The number of days the student has attended school shall be reported monthly by the teacher to the school board of such public school district.

No more than one allowance shall be made to a family irrespective of the number of students in a family being transported to school. If a family resides in a Class I district which is part of a Class VI district and has students enrolled in any grade of grades kindergarten through six in the Class I district and in any grade of grades seven and eight in the Class VI district, such family shall receive not more than one allowance for the distance actually traveled when both districts are on the same direct travel route with one district being located a greater distance from the residence than the other. In such cases, the travel allowance shall be prorated among the school districts involved.

Unless the parties involved can mutually agree, the county superintendent of the district in which the school attended is located shall determine the pro rata share to be paid by each district. In the event the schools attended are in different counties, the respective county superintendents shall determine the proper pro rata amount each district shall pay.

No student shall be exempt from school attendance on account of distance from the public schoolhouse.

Sec. 22. That section 79-4,207, Revised Statutes Supplement, 1992, be amended to read as follows:

79-4,207. (1) Each school board, after making a determination that an actual or potential environmental hazard or accessibility barrier exists within the school buildings or grounds under its control, may make and deliver to the county clerk of such county in which

any part of the school district is situated, not later than August 25, an itemized estimate of the amounts necessary to be expended for the abatement of such environmental hazard or accessibility barrier elimination in its school buildings or grounds. Each school board shall conduct a public hearing on the itemized estimate prior to presenting such estimate to the county clerk. Notice of the place and time of such hearing shall, at least five days prior to the date set for hearing, be published in a newspaper of general circulation within the school district or be sent by direct mailing to each resident within the district.

(2) The school board shall designate the particular environmental hazard abatement project or accessibility barrier elimination project for which the tax levy provided for by this section will be expended, the period of years, which shall not exceed ten years, for which the tax will be levied for such project, and the amount of the levy for each year thereof. The school board may designate more than one project and levy a tax pursuant to this section for each such project, concurrently or consecutively, as the case may be, if the aggregate levy in each year and the duration of each levy will not exceed the limitations specified in this section. Each levy for a project which is authorized by this section may be imposed for such duration as shall be specified by the school board notwithstanding the contemporaneous existence or subsequent imposition of any other levy for another project imposed pursuant to this section and notwithstanding the subsequent issuance by the district of bonded indebtedness payable from its general fund levy.

(3) The county clerk shall levy such taxes, not to exceed five and one-fifth cents per one hundred dollars of taxable valuation, on the taxable property of the district necessary to cover the project costs itemized by the school board. Such taxes shall be collected by the county treasurer at the same time and in the same manner as county taxes are collected and when collected shall be paid to the treasurer of the district and used to cover the project costs.

(4) If such school board operates grades nine through twelve as part of an affiliated school system, it shall designate the fraction of the project to be conducted for the benefit of grades nine through twelve. Such fraction shall be raised by a levy placed upon all of the taxable value of all taxable property in the affiliated school system pursuant to subsection (2) of section 79-434. The balance of the project to be conducted for the benefit of grades kindergarten through eight shall be raised by a levy placed upon all of the taxable value of all taxable property in the district which is governed by such school board. The combined rate for both levies in the high school district, to be determined by such board, shall not exceed five and one-fifth cents on each one hundred dollars of taxable value.

(5) Each school board which submits an itemized estimate shall establish an environmental hazard abatement and accessibility barrier elimination project fund. Taxes collected pursuant to this section shall be credited to such fund to cover the project costs. Such estimates may be presented to the county clerk and taxes levied accordingly. The

Director of Health shall, by January 1, 1993, 1995, 1997, and 1999, deliver a report to the Legislature estimating the amount of hazardous materials which remain in the public schools of the state.

~~(5)~~ (6) The itemized estimate submitted by a school board may include the actual cost of abatement of an environmental hazard when such abatement occurred prior to the delivery of such estimate to the county clerk and was completed after June 28, 1982.

~~(6)~~ (7) For purposes of this section:

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

(b) Accessibility barrier shall mean anything which impedes entry into, exit from, or use of any building or facility by all people;

(c) Accessibility barrier elimination shall include, but not be limited to, inspection for and removal of accessibility barriers, maintenance to reduce, lessen, put an end to, diminish, control, dispose of, or eliminate accessibility barriers, related restoration or replacement of facilities or property, any related architectural and engineering services, and any other action to eliminate accessibility barriers in the school buildings or grounds under the school board's control; and

(d) Environmental hazard shall mean any contamination of the air, water, or land surface or subsurface caused by any substance adversely affecting human health or safety if such substance has been declared hazardous by a federal or state statute, rule, or regulation.

~~(7)~~ (8) Accessibility barrier elimination project costs shall include, but not be limited to, inspection, maintenance, accounting, emergency services, consultation, or any other action to reduce or eliminate accessibility barriers.

~~(8)~~ (9) For the purpose of paying amounts necessary for the abatement of environmental hazards and accessibility barrier elimination, the school board may borrow money and issue bonds and other evidences of indebtedness of the district, which bonds and other evidences of indebtedness shall be secured by and payable from an irrevocable pledge by the district of amounts received in respect of the tax levy provided for by this section and any other funds of the district available therefor. Bonds and other evidences of indebtedness issued by a district pursuant to this subsection shall not constitute a general obligation of the district or be payable from any portion of its general fund levy.

Sec. 23. That section 79-507, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-507. The qualified voters of a Class I school district ~~of the first or second class~~ shall also, at any annual or special meeting, authorize and direct by a fifty-five percent vote, the sale of any schoolhouse, site, building, or other property belonging to the district when the same ~~shall is~~ no longer ~~be~~ needed for the use of the district. When real estate is sold, the district may convey the same by deed, signed by the president of the district, and such deed, when acknowledged by such officer to be the act of the district, may be recorded in the office of the register of deeds of the county in which the real estate is situated, in like manner as other deeds.

Sec. 24. That section 79-521, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-521. No school property of any kind; belonging to any Class II, III, IV, or VI school district ~~of the third, fourth, or sixth class~~, shall be sold by the board of education except at a regular meeting of the same; and ~~not then without~~ with an affirmative recorded vote of at least two-thirds of all the members of the board. Proceeds of sale of school property, sold as above provided, may be held separately from other funds of the school district and may be used for any school purpose as the board of education may determine, including, but not limited to, acquiring sites for school buildings or teacherages and purchasing existing buildings for use as school buildings or teacherages, including the sites upon which such buildings are located, and the erection, alteration, equipping, and furnishing of school buildings or teacherages.

Sec. 25. That section 79-803.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-803.03. (1) The board of education of a Class III school district of which more than seventy-five percent of the geographical area lies within a city of the metropolitan class shall consist of six members to be elected by the registered voters of the school district at the time of the statewide primary election and also may include one or more nonvoting student members selected pursuant to section 79-547.02. Until the registered voters of the district vote not to continue to have a caucus for nominations pursuant to subsection (2) of this section, a caucus shall be held pursuant to subsection (3) of this section not less than seventy days prior to the holding of the election to nominate two or more candidates for each vacancy to be voted upon at the election to be held in conjunction with the statewide primary election. If the registered voters vote not to continue to have a caucus, candidates shall be nominated at a primary election held in conjunction with the primary election for the city of the metropolitan class. Not less than seventy days prior to the holding of the election, there shall be nominated at a caucus held within the district, two or more candidates for each vacancy to be voted upon at an election to be held in conjunction with the statewide primary election, except that student members may be selected pursuant to section 79-547.02. Two members shall be elected at each general election for a term of six years. The governing body which calls the caucus shall publish notice of such caucus in at least one newspaper of general

~~circulation in the district at least once each week for two consecutive weeks before the caucus. The notice shall state the date, time, place, and names of voting board members whose terms are to be filled. The chairperson of the caucus at which candidates are nominated shall certify to the secretary of the board of education the names of the candidates so nominated not later than two days following the caucus. The secretary of the board of education shall then notify the persons so nominated of their nomination, such notification to take place not later than five days after such caucus. No candidate nominated shall have his or her name placed upon the ballot for the general election unless, not more than ten days after the holding of such caucus his or her nomination, he or she shall have filed files with the secretary of the board of education a written statement accepting the nomination. The secretary of the board of education shall certify the names of the candidates to the proper election official election commissioner or county clerk who shall prepare the official ballot listing the names as certified and without any area designation. All registered voters residing within the school district shall be permitted to vote at such election.~~

(2) The board of education may place before the registered voters of the school district the issue of whether to continue to have a caucus for nominations by adopting a resolution to do so and certifying the issue to the election commissioner or county clerk prior to September 1 for placement on the ballot at the next statewide general election. The registered voters of the school district may also have the issue placed on the ballot at the statewide general election by circulating a petition and gathering the signatures of the registered voters residing within the school district at least equal to seven percent of the number of persons registered to vote in the school district at the last statewide primary election. The petitions shall be filed with the election commissioner or county clerk for signature verification on or before August 15 prior to a statewide general election. If the election commissioner or county clerk determines that the appropriate number of registered voters signed the petition, he or she shall place the issue on the ballot for the next statewide general election. The issue shall not be placed on the ballot again within four years after voting on the issue at a statewide general election.

(3) A school district which uses a caucus for nominations shall develop rules and procedures for conducting the caucus which will ensure:

(a) Publication of the rules and procedures by multiple sources if necessary so that every resident of the school district has access to information on the process for placing a name in nomination and voting at the caucus;

(b) Facilities for voting at the caucus which comply with the federal Americans with Disabilities Act of 1990 and which will accommodate a reasonably anticipated number of registered voters;

(c) Election security which will provide for a fair and impartial election, including the secrecy of the ballot, one vote per registered voter, and only registered voters of the school district being

allowed to vote;

(d) Equal access to all registered voters of the school district, including the presence of an interpreter at the caucus at the expense of the school district and ballots for the visually impaired to provide access to the process by all registered voters of the school district;

(e) Adequate time and opportunity for registered voters of the school district to exercise their right to vote; and

(f) Notification of nomination to the candidates and to the secretary of the board of education.

The rules and regulations shall be approved by the election commissioner or county clerk prior to use for a caucus.

Sec. 26. That section 79-803.07, Revised Statutes Supplement, 1992, be amended to read as follows:

79-803.07. At Except as provided in section 79-803.03, candidates for school board of Class III school districts shall be nominated at the statewide primary election in each even-numbered year. In ~~there may be nominated in~~ each Class III school district which has a school board which ~~whose board of education~~ consists of six members, enough candidates for members of the board of education shall be nominated to provide for a full complement of six members, and in each Class III school district which has a school board which ~~whose board of education~~ consists of nine members, enough candidates for members of the board of education shall be nominated to provide for a full complement of nine members. Candidates ~~If candidates are to be nominated at the statewide primary election, candidates~~ may make a personal filing as provided in section 32-503.01 or by petition as provided in section 32-504. Boards of education of Class III districts holding their elections by ward or district shall continue to elect their members in such manner, and those boards of education holding their elections at large shall continue to elect their members at large. Any change in the procedures of electing board members from districts or wards to at large or from at large to districts or wards shall be by petition as provided in section 32-1058. The number of members to be nominated at the statewide primary election and elected at the statewide general election and the terms for which they will be nominated and elected shall be determined by the county clerk or election commissioner with the aid of the elected secretary of the board of education of the district in accordance with the following:

(1) The term of office of any member of such board that would expire prior to the first Thursday after the first Tuesday in January 1975 is hereby extended to such date;

(2) The term of office of any member that would expire after such latter date and prior to the first Thursday after the first Tuesday in January 1977 is hereby extended to the first Thursday after the first Tuesday of January 1977;

(3) The term of office of any member that would expire after such latter date and prior to the first Thursday after the first Tuesday in January 1979 is hereby extended to the first Thursday after the first

Tuesday of January 1979; and

(4) If nominations are not made by caucus and the number of candidates properly filed for nomination at the primary election does not exceed two for each vacancy to be filled, all so filed may be considered to be nominated and no primary election for their nomination shall be required.

Terms shall be staggered so by not later than the general election of 1978 three members shall be elected to each six-member board and four or five members shall be elected to each nine-member board at each general election for terms of four years. When it becomes necessary to establish the staggering of terms by ~~nominating and~~ electing members for terms of different duration at the same election, candidates receiving the greatest number of votes shall be ~~nominated~~ elected for the longer terms. In no case shall the county clerk or election commissioner place on the general election ballot more than twice the number of names required to fill the vacancies that will occur.

Sec. 27. That section 79-803.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-803.08. When candidates for the school board of a Class III school district are nominated at the statewide primary election and the name of a person is written in and voted for as a candidate for the ~~school board of education of a Class III school district~~ who did not file or become a petition candidate for such nomination, such person shall not be entitled to a certificate of nomination at a statewide primary election ~~nor and shall not be entitled to~~ have his ~~or her~~ name placed on the general election ballot unless he ~~or she~~ shall have received not less than twenty percent of the total votes cast for the candidate receiving the greatest number of votes in the district or ward or the candidate receiving the greatest number of votes when the candidates are nominated at large at the primary election.

In the case of a tie vote of any of the candidates in either the primary or general election, the county clerk or election commissioner shall notify such candidates to appear at his ~~or her~~ office on a given day and hour to determine the same by lot before the county canvassing board and the certificate of nomination shall be given accordingly. Notice to appear shall be given by certified mail.

Sec. 28. That section 79-803.09, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-803.09. The county clerk or election commissioner in preparing the official ballot for the general election shall place thereon the names of the two persons who received the greatest number of votes in the primary ~~but in no event shall the names on the official general election ballot be more than twice the number of vacancies to be filled at the general election~~ election for each position to be filled or the names of the persons nominated at the caucus. Petitions for the filling of a vacancy on the ballot shall be filed in accordance with ~~the provisions of~~ section 32-537.

~~In the case of a tie vote of any of the candidates in either~~

~~the primary or general election, the county clerk or election commissioner shall notify such candidates to appear at his or her office on a given day and hour to determine the same by lot before the county canvassing board and the certificate of nomination shall be given accordingly. Notice to appear shall be given by certified mail.~~

Sec. 29. That section 79-1247.07, Revised Statutes Supplement, 1992, be amended to read as follows:

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

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

(3) Any fee received by the State Department of Education under this section shall be ~~deposited in the state treasury to the credit of~~ remitted to the State Treasurer for credit to the Teachers' Certification Fund which is hereby created for use by the department in paying the costs of certifying educators pursuant to sections 79-1247.05 to 79-1247.13, except that ten dollars of the forty-dollar fee specified in subsection (1) of this section shall be ~~deposited to the credit of~~ credited to the Professional Practices Commission Fund which is hereby created for use by the department to pay for the provisions of sections 79-1280 to 79-1286 and sections 30 and 33 to 35 of this act. ~~No money~~ Money in the Teachers' Certification Fund shall not be used for any purpose other than the direct certification of educators and shall not be used for accreditation visits. Any money in the Teachers' Certification Fund or the Professional Practices Commission Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

(4) Since nonpublic schools and their teachers do not receive the benefits of sections 79-1280 to 79-1286 and sections 30 and 33 to 35 of this act, a special certificate or permit restricted to use in nonpublic schools only shall be issued upon payment of a nonrefundable fee of thirty dollars. Such certificate or permit shall have plainly stamped

or otherwise written on its face the words nonpublic school only. Upon surrender of such a certificate or permit and the payment of the fee provided in subsection (1) of this section by the holder thereof of the certificate or permit, a regular certificate or permit shall be issued. Such and such fee shall be deposited remitted and credited as directed in subsection (3) of this section.

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

Sec. 30. For purposes of sections 79-1280 to 79-1286 and sections 30 and 33 to 35 of this act:

(1) Commission shall mean the Professional Practices Commission;

(2) Board shall mean the State Board of Education; and

(3) Commissioner shall mean the Commissioner of Education.

Sec. 31. That section 79-1281, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1281. (1) The Governor shall appoint a Professional Practices Commission of twelve members nominated by the teaching profession and existing teachers professional organizations. Members shall be representative of elementary classroom teachers, secondary classroom teachers, school administrators, and higher postsecondary education. Initial appointments shall be four for three years, four for two years, and four for one year. Successors Members shall be appointed for a term staggered terms of three years. No member may succeed himself or herself more than once. Members of the commission shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177, for state employees. The commission shall meet on call of the chairperson of the commission. Compensation of members of the commission who are public employees shall not be reduced by the agency or body by which they are regularly employed for any absence from service occasioned by attendance upon the business of the commission, its committees or subcommittees or any panel, committee, or subcommittee of the commission. Each school district which employs a member of the commission and which is required to employ a person to replace such member during his or her attendance at meetings of the commission or any panel, committee, or subcommittee thereof, of the commission shall be reimbursed from the Professional Practices Commission Fund for the expense it the district incurs from employing a replacement.

(2) The members of the commission shall elect a chairperson pursuant to the working rules of the commission. The chairperson shall call meetings of the commission, preside at all meetings of the commission en banc, assign the work of the commission to the members, and perform such other supervisory duties as required.

(3) A majority of the commission members shall constitute a quorum to transact business. A hearing panel of not less than seven

commission members shall hear cases brought before the commission. Members of the hearing panel shall be assigned on a rotating basis. For purposes of hearings, the act or decision of a majority of the commission members sitting on the hearing panel shall in all cases be deemed the final act or decision of the commission.

Sec. 32. That section 79-1281.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1281.01. The commission may appoint or retain an executive director and such other persons as it may deem necessary for the performance of its functions and shall prescribe their duties, fix their compensation, and provide for reimbursement of their expenses as provided in sections 81-1174 to 81-1177 for state employees within the amounts available in the budget of the commission. The commission shall, with the advice and consent of the Governor, appoint a clerk of the commission who shall hold office at the pleasure of the commission. The clerk shall, under the direction of the chairperson of the commission, keep a complete and accurate record of the proceedings of the commission, record all pleadings and other papers filed with the commission, issue all necessary notices and writs, superintend the business of the commission, and perform such other duties as the commission directs. The clerk shall not be a member of the commission and shall not participate in hearings before the commission except to schedule and make other arrangements for the conduct of hearings.

Sec. 33. The clerk of the commission shall receive such salary as the commission with the approval of the Governor determines. Such salary shall be payable in the same manner as the salaries of other state employees, and the clerk shall be reimbursed for his or her actual expenses incurred in the performance of his or her duties as provided in sections 81-1174 to 81-1177.

Sec. 34. The commission shall appoint a certified court reporter to report and transcribe all testimony given in hearings and trials before the commission. The reporter shall be paid from the budget of the commission.

Sec. 35. The commission may, on a case-by-case basis, retain legal counsel to sit with any hearing panel of the commission during hearings to advise the hearing panel on questions of law.

Sec. 36. That section 79-1282, Revised Statutes Supplement, 1992, be amended to read as follows:

79-1282. (1) The State Board of Education board shall adopt and promulgate rules and regulations establishing standards of professional practices for teachers and administrators holding certificates in areas including, but not limited to: (a) Ethical and professional performance; (b) competency; (c) continuance in professional service; and (d) contractual obligations. The board shall receive the advice and counsel of the Professional Practices Commission commission in the adoption of such standards as they the standards apply to the holders of public school certificates.

(2) The board may, for just cause, revoke or suspend any

teacher's or administrator's certificate.

~~A violation~~ Violation of the standards established pursuant to this section, commission of an immoral act, or conviction of a felony under the laws of this state shall constitute just cause for the revocation or suspension of a teacher's or administrator's certificate by the board. The revocation or suspension of a certificate shall terminate the employment of such teacher or administrator. The ~~State Board of Education board~~ shall immediately notify the secretary or board of education of the school district where such teacher or administrator is employed of such revocation or suspension. ~~The State Board of Education~~ shall ~~also~~ notify the teacher or administrator of such revocation or suspension, and shall ~~enter its~~ record the action in the matter in the books or records of ~~its office~~ the board.

Sec. 37. That section 79-1282.01, Revised Statutes Supplement, 1992, be amended to read as follows:

79-1282.01. The revocation of a person's teacher's or administrator's certificate by the ~~State Board of Education board~~ shall automatically ~~shall~~ revoke any and all Nebraska teachers' certificates held by the person. A teacher's or administrator's certificate which has been suspended shall be automatically reinstated at the end of the suspension if such certificate did not expire during the period of suspension. If the certificate expired during the period of suspension, the holder of the expired certificate may secure a new certificate by making application therefor and by meeting the certification requirements at the time of application for the new certificate. A person whose teacher's or administrator's certificate has been revoked may apply for a new certificate at the expiration of any period of ineligibility fixed by the board by making application therefor and by meeting the certification requirements at the time of application for the new certificate.

Sec. 38. That section 79-1283, Revised Statutes Supplement, 1992, be amended to read as follows:

79-1283. The ~~State Board of Education shall~~ board may request the ~~Professional Practices Commission or a special committee of members thereof~~ commission to hold hearings and make recommendations to the board concerning alleged violations of standards of professional ethics and practices by holders of public school certificates. The board may employ hearing officers to hold hearings and make recommendations to the board concerning alleged violations of standards of professional ethics and practices by holders of nonpublic school certificates. The ~~commission~~ recommendations of the commission shall be made a part of the record of the board in all cases of public school certificate revocation or suspension and reinstatement of a revoked public school certificate. The commission may privately admonish; ~~or~~ warn; ~~and~~ or publicly reprimand teachers and administrators holding public school certificates for violation of the standards established pursuant to section 79-1282. Any ~~such action~~ public reprimand by the commission shall be reported to the State Department of Education. Any recommendation for the revocation or suspension of a public school

certificate by the commission shall be reported to the board.

The ~~Commissioner of Education~~ commissioner may employ persons to investigate and prosecute cases of alleged violations of standards of professional ethics and practices before the commission or before the board and its hearing officers. The commissioner shall cause to be investigated expeditiously any complaint which is filed with him or her or which is otherwise called to his or her attention and which if legally sufficient constitutes grounds for the revocation or suspension of a certificate or any other appropriate penalty set forth in section 79-1282 or in the rules and regulations adopted and promulgated pursuant to such section. If following an investigation the commissioner determines that legally sufficient grounds exist for revocation or suspension of a certificate or for any other appropriate penalty set forth in such section or rules and regulations, the commissioner may, in his or her discretion, file a petition with the commission for adjudication of the matter or may reach an agreement for the appropriate sanction as allowed by the rules and regulations.

Sec. 39. That section 79-1284, Revised Statutes Supplement, 1992, be amended to read as follows:

79-1284. The ~~Professional Practices Commission and the State Board of Education~~ commission and the board shall adopt and promulgate rules and regulations for the performance of their functions under sections 79-1280 to 79-1286 and sections 30 and 33 to 35 of this act. Recommendations may be made by the commission to the board, to school boards or boards of education, and to postsecondary educational institutions of higher education which will promote improvement of education and the teaching profession.

Sec. 40. That section 79-1285, Revised Statutes Supplement, 1992, be amended to read as follows:

79-1285. In the performance of their functions under the provisions of sections 79-1247.07 and 79-1280 to 79-1286 and sections 30 and 33 to 35 of this act, the ~~Commissioner of Education~~ commissioner, the commission, and the ~~State Board of Education~~ board may subpoena witnesses and place them under oath.

Sec. 41. That section 79-1286, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1286. All costs and expenses incurred by the commission in administering the provisions of sections ~~79-1247.07 and~~ 79-1280 to 79-1286 and sections 30 and 33 to 35 of this act shall be paid from the Professional Practices Commission Fund, ~~created by section 79-1247.07~~. The commission shall develop its own budget which shall be included as a program in the general budget of the State Department of Education.

Sec. 42. That section 79-547.03, Revised Statutes Supplement, 1992, be amended to read as follows:

~~79-547.03~~. The annual budget of ~~a Class II, III, IV, V, and VI~~ all school ~~district districts~~ and ~~an~~ educational service ~~unit~~ units shall be subject to the Nebraska Budget Act.

Sec. 43. That section 79-1303, Revised Statutes Supplement, 1992, be amended to read as follows:

79-1303. (1) In making the apportionment under section 79-1302, the Commissioner of Education shall distribute from the school fund for school purposes, to any and all school districts and to the nonresident high school tuition fund of counties in which there are situated school lands which have not been sold and transferred by deed or saline lands owned by the state, an amount in lieu of tax money that would be raised if such lands were taxable, to be ascertained in accordance with subsection (2) of this section, except that for Class I districts or portions thereof which are affiliated and in which there are situated school or saline lands, 38.6207 percent of the in lieu of land tax money calculated pursuant to subsection (2) of this section, based on the affiliated school system tax levy computed pursuant to section 79-438.12, shall be distributed to the affiliated high school district and the remainder shall be distributed to the Class I district.

(2) The county superintendents shall certify to the Commissioner of Education the tax levy for school purposes of each school district and the nonresident high school tuition levy of the county in which the school land or saline land is located and the last appraised value of such school land, ~~which value shall be one hundred forty three percent of the appraised value~~ for the purpose of applying the applicable tax levy for each district and for the nonresident high school tuition fund in determining the distribution to the districts and to the nonresident high school tuition fund of the counties of such amounts. The board of any school district, ~~wherein there~~ in which is located any leased or undeeded school land or saline land subject to the provisions of this section, may appeal to the Board of Educational Lands and Funds for a reappraisal of such school land if such school board deems the land not appraised in proportion to the value of adjoining land of the same or similar value. The Board of Educational Lands and Funds shall proceed to investigate the facts involved in such appeal and, if the contention of the school board is correct, make the proper reappraisal.

Sec. 44. That section 79-1421, Revised Statutes Supplement, 1992, be amended to read as follows:

79-1421. (1) The State Board of Education shall also be the State Board of Vocational Education and, when acting as the State Board of Vocational Education, shall assume the powers and duties provided in sections 79-1419 to ~~79-1434~~ 79-1429.

(2) The Commissioner of Education shall be the executive officer of the State Board of Vocational Education. The members of the State Board of Vocational Education shall receive no compensation for their services. They shall be reimbursed for actual and essential expenses incurred in attending meetings or incurred in the performance of their duties as provided in sections 81-1174 to 81-1177. The State Board of Vocational Education shall meet in the office of the State Department of Education at least four times annually. It may meet at such other times and places as the board may determine necessary for the proper and

efficient conduct of its duties. Special meetings may be called by the presiding officer upon a written notice given at least five days preceding the meeting. In the absence of such a call by the presiding officer, the Commissioner of Education shall call such special meeting upon the written request of a majority of the board. Five members of the board shall constitute a quorum for the transaction of business.

Sec. 45. That section 79-1422, Revised Statutes Supplement, 1992, be amended to read as follows:

79-1422. The State Board of Vocational Education shall adopt the policies to be followed in administering vocational education and shall supervise the administration thereof by the assistant commissioner of education, who shall be in charge of vocational education. The board shall cooperate with the United States Department of Education in the administration of federal legislation relating to vocational education and shall do all things necessary to entitle the state to receive the benefits thereof. The board may adopt and promulgate rules and regulations to carry out sections 79-1419 to ~~79-1434~~ 79-1429.

Sec. 46. That section 79-1423, Revised Statutes Supplement, 1992, be amended to read as follows:

79-1423. The State Board of Vocational Education shall, on the recommendation of the Commissioner of Education, appoint staff members to carry out sections 79-1419 to ~~79-1434~~ 79-1429.

Sec. 47. That section 79-1429, Revised Statutes Supplement, 1992, be amended to read as follows:

79-1429. The State Board of Vocational Education shall (1) cooperate with the boards authorized by sections 79-1419 to ~~79-1434~~ 79-1429 to establish vocational schools, departments, or courses, (2) cooperate with the United States Department of Education in the administration of federal legislation relating to vocational education and the Nebraska State Plan for Vocational Education, (3) administer the funds provided by the federal government under such federal legislation, by the State of Nebraska, and by donations or contributions for the promotion of vocational education in the public schools of Nebraska, (4) appoint staff members to administer such federal legislation and sections 79-1419 to ~~79-1434~~ 79-1429 for the State of Nebraska, (5) fix the compensation of such personnel and pay such compensation and other necessary expenses of administration from funds appropriated by the Legislature or available federal funds, (6) make studies and investigations relative to vocational education, (7) promote and aid in the establishment of vocational schools, departments, or courses in communities giving training in such subjects and cooperate with local boards in the maintenance of the same, (8) prescribe qualifications and provide for the certification of teachers and supervisors of vocational education and related subjects, (9) cooperate in the maintenance of courses supported and controlled by the public for the preparation of teachers and supervisors of vocational education and related subjects or maintain such courses under its own direction and control, and (10) establish and determine by general regulations the qualifications to be possessed by

persons engaged in the training of vocational teachers, ~~and (11) establish a training program for fire department personnel as provided in sections 79-1430 and 79-1431.~~

The State Board of Vocational Education shall not allow vocational education programs to be established under sections 79-1419 to 79-1429 if such programs are inconsistent with sections 79-2644 and 85-917 to 85-966.

Sec. 48. That section 79-2110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2110. The State Department of Education shall, with funds specifically appropriated for instructional telecommunications by the Legislature and such other funds which may be available, make provision for the planning, developing, producing, leasing, disseminating, and utilizing of instructional technology in the elementary and secondary schools of Nebraska.

Funds appropriated or acquired for the purpose of providing such programming to the elementary and secondary schools shall make provision for the employment of a director and such additional employees as may be necessary for the State Department of Education to assume the designated responsibilities of instructional technology and to perform the assigned functions in an efficient manner. Funds may be used to contract with organizations designed to plan, produce, and acquire instructional telecommunications programming for elementary and secondary school use. The department may ~~publish or cause to be published, develop~~ or cause to be published, developed, acquire, and distribute such ~~informational material~~ telecommunications resources as it deems necessary, and it may, at its discretion, charge appropriate fees therefor. The department shall make such ~~materials~~ resources available at cost to all individuals, schools, private and public institutions, and organizations. The proceeds of all such fees paid to the department shall be deposited in a State Department of Education Cash Fund and shall be used by the department for ~~publishing such informational material~~ publication, development, acquisition, and distribution of such resource material.

The State Department of Education shall adopt and promulgate rules and regulations for approving the type and number of credits for telecommunications courses which are offered to elementary and secondary schools.

Sec. 49. Each educational service unit shall provide, in cooperation with the State Department of Education, access for all school districts within the geographical area served by the unit to telecomputing resources through the installation of necessary equipment at each educational service unit location and provide support for training users to meet their specific telecomputing needs. The purchase of and planning for equipment and software for the educational service units shall be coordinated by the department and shall be compatible with a statewide plan for telecomputing agreed upon by the Department of Administrative Services and the State Department of Education. Educational service

units may enter into agreements pursuant to the Interlocal Cooperation Act to carry out this section.

Sec. 50. That section 79-2210, Revised Statutes Supplement, 1992, be amended to read as follows:

79-2210. After the adoption of its budget statement, the board for each educational service unit may levy a tax, in the amount which it requires under its adopted budget statement to be received from taxation, of not to exceed three and five-tenths cents on each one hundred dollars on the taxable valuation of the taxable property within its geographical unit, except that the tax may exceed three and five-tenths cents on each one hundred dollars of such valuation by up to five-tenths cent on each one hundred dollars of such valuation in order to carry out the purposes of section 49 of this act. The amount of such levy shall be certified by the secretary of the educational service unit board to the county board of equalization of each county in which any part of the geographical area of the educational service unit is located on or before September 1 for 1992 and on or before August 25 for all other years. Such tax shall be levied and assessed in the same manner as other property taxes and entered on the books of the county treasurer. The proceeds of such tax, as collected, shall be remitted to the treasurer of the board not less frequently than once each month.

Sec. 51. That section 79-2801, Revised Statutes Supplement, 1992, be amended to read as follows:

79-2801. Sections 79-2801 to 79-2858 and sections 52 to 56 of this act shall be known and may be cited as the Private Postsecondary Career School Act.

Sec. 52. The Tuition Recovery Cash Fund is hereby established. The fund shall be a cash fund used to receive assessments imposed under section 54 of this act and to pay claims authorized under section 55 of this act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276. Any interest earned by the fund shall accrue to the fund.

Sec. 53. The Tuition Recovery Cash Fund shall be administered by the State Board of Education and an advisory committee composed of the commissioner or his or her representative, the State Treasurer or his or her representative, and three administrators of private postsecondary career schools appointed by the State Board of Education with the advice of the Nebraska Council of Private Postsecondary Career Schools. The State Board of Education shall adopt and promulgate rules and regulations for the administration of the fund and for the evaluation and approval of claims pursuant to section 55 of this act.

Sec. 54. (1) The State Board of Education shall annually assess each private postsecondary career school one-tenth of one percent of the prior school year's gross tuition revenue until the Tuition Recovery Cash Fund reaches the minimum fund level. The fund shall be maintained at a minimum of one hundred fifty thousand dollars and a maximum of three hundred thousand dollars. At any time when the fund

drops below the minimum level, the State Board of Education may resume the assessment. Funds in excess of the maximum level shall be used as directed by the State Board of Education to provide grants or scholarships for students attending private postsecondary career schools.

(2) The State Board of Education shall require documentation from each private postsecondary career school to verify the tuition revenue collected by the school and to determine the amount of the assessment under this section.

(3) Any private postsecondary career school applying for authorization to operate from the commissioner or any other agency after the operative date of this section shall not be assessed under this section for the first year of operation but shall be assessed each year thereafter for four years or until the fund reaches the minimum level required by this section, whichever occurs last, and shall maintain a surety bond pursuant to section 79-2842 until such time.

(4) The authorization to operate of any private postsecondary career school which fails to comply with this section shall be subject to revocation.

Sec. 55. Any student injured by the termination of operations by a private postsecondary career school on or after the operative date of this section may submit a claim against the Tuition Recovery Cash Fund for tuition and fees paid to the school for which classes were not offered and no refunds made. The State Board of Education shall adopt rules and regulations for the evaluation and approval of claims made against the fund and shall provide for payments made from the fund. No claim shall be allowed unless it is submitted within one year after the school terminates operations and there are sufficient funds available in the fund to pay the claim.

Sec. 56. A private postsecondary career school may include references to the Tuition Recovery Cash Fund in advertising or information provided to students or prospective students. Any such reference shall clearly describe the protection and limitations prescribed in section 55 of this act and the rules and regulations.

Sec. 57. That section 79-2804, Revised Statutes Supplement, 1992, be amended to read as follows:

79-2804. The following education and schools are exempted from the provisions of the Private Postsecondary Career School Act:

(1) Schools exclusively offering instruction at any or all levels from preschool through the twelfth grade;

(2) Education sponsored by a bona fide trade, business, professional, or fraternal organization which is offered solely for that organization's membership or offered without charge;

(3) Education solely avocational or recreational in nature as determined by the department;

(4) Educational programs offered by a charitable institution, organization, or agency as long as such education or training is not advertised or promoted as leading toward occupational objectives;

(5) Public postsecondary schools established, operated, and governed by this state or its political subdivisions;

(6) Schools or organizations offering education or instruction which are licensed and regulated by agencies of this state other than the department as of September 2, 1977, except that such schools or organizations shall not be exempt from the provisions of the act with respect to agents' permits and the Tuition Recovery Cash Fund;

(7) Schools or organizations which offer education or instruction and which are licensed and regulated solely by an agency of the federal government with respect to curriculum and qualifications of instructional staff; and

(8) Private colleges and universities which award baccalaureate or higher degrees and which maintain and operate educational programs for which credit is given.

Sec. 58. That section 79-2812, Revised Statutes Supplement, 1992, be amended to read as follows:

79-2812. Each private postsecondary career school desiring authorization to operate in this state shall make application to the department upon forms to be provided by the department. The application shall be accompanied by descriptive literature published or proposed to be published by the school containing the information specified in the department's rules and regulations. The application shall include the identification of any branch facility or separate classroom. A facility which does not meet the criteria provided in subdivision (5) of section 79-2803 is not a branch facility and shall be considered a separate private postsecondary career school requiring separate authorization. A separate classroom shall not require separate authorization. The application shall also be accompanied by ~~a surety bond as provided in section 79-2842~~ and the application fee provided in section 79-2846. Until the Tuition Recovery Cash Fund initially reaches the minimum fund level prescribed in section 54 of this act, the application shall be accompanied by a surety bond as provided in section 79-2842.

Sec. 59. That section 79-2842, Revised Statutes Supplement, 1992, be amended to read as follows:

79-2842. ~~At the time~~ Until the Tuition Recovery Cash Fund initially reaches the minimum fund level prescribed in section 54 of this act, when an application is made for authorization to operate, the department may require the private postsecondary career school making such application to file with the department a good and sufficient surety bond in the penal sum of twenty thousand dollars or other security agreement deemed satisfactory by the department. Such bond or other security shall cover branch facilities. The bond or agreement shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state. The bond or agreement shall be conditioned to provide indemnification to any student or enrollee or his or her parent or guardian determined to have suffered loss or damage as a result of any act or practice which is a violation of the Private Postsecondary Career School Act by the school and that the surety shall

pay any final judgment rendered by any court of this state having jurisdiction upon receipt of written notification of the judgment. Regardless of the number of years that such bond or agreement is in force, the aggregate liability of the surety thereon shall in no event exceed the penal sum of the bond or agreement. The bond or agreement may be continuous.

Sec. 60. That section 79-2844, Revised Statutes Supplement, 1992, be amended to read as follows:

79-2844. ~~The~~ Until the Tuition Recovery Cash Fund initially reaches the minimum fund level prescribed in section 54 of this act, the surety bond or agreement shall cover the period of the authorization to operate or the agent's permit, as appropriate, except when a surety is released as provided in this section. A surety on any bond or agreement filed under section 79-2842 or 79-2843 may be released therefrom after such surety serves written notice thereof on the department thirty days prior to the release. Such release shall not discharge or otherwise affect any claim theretofore or thereafter filed by a student or enrollee or his or her parent or guardian for loss or damage resulting from any act or practice which is a violation of the Private Postsecondary Career School Act alleged to have occurred while the bond or agreement was in effect or for a school's ceasing operations during the term for which tuition has been paid while the bond or agreement was in force.

Sec. 61. That section 79-2845, Revised Statutes Supplement, 1992, be amended to read as follows:

79-2845. ~~Authorization for a school~~ Until the Tuition Recovery Cash Fund initially reaches the minimum fund level prescribed in section 54 of this act, authorization to operate and an agent's permit shall be suspended by operation of law when the school or agent is no longer covered by a surety bond or agreement as required by sections 79-2842 and 79-2843. The commissioner shall cause the school or agent, or both, to receive at least thirty days' written notice prior to the release of the surety to the effect that the authorization or permit shall be suspended by operation of law until another surety bond or agreement is filed in the same manner and like amount as the bond or agreement being terminated. After the Tuition Recovery Cash Fund initially reaches such minimum fund level, the surety bond or agreement shall no longer be required to be kept in force by any private postsecondary career school contributing to the fund except as specified for any private postsecondary career school applying for authorization to operate from the commissioner or any other agency after the operative date of this section.

Sec. 62. That section 79-3309, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-3309. Handicapped child shall mean ~~that~~ a child who is classified as mentally retarded, hard of hearing, deaf, speech and language impaired, visually handicapped, behaviorally disordered, orthopedically impaired, other health impaired, deaf-blind, or multihandicapped or has specific learning disabilities or a child with

traumatic brain injury or autism and who, because of such impairments, needs special education and related services. For purposes of this section:

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

(2) Behaviorally disordered child shall mean a child with a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree which adversely affects educational performance:

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

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

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

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

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

The term shall include a child who is schizophrenic but shall not include a child who is socially maladjusted unless such child exhibits characteristics defined in subdivision (a) or (b) of this subdivision;

~~(2)~~ (3) Deaf shall mean a hearing impairment which is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects educational performance;

~~(3)~~ (4) Deaf-blind shall mean concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that such impairments cannot be accommodated in special education programs solely for deaf or blind children;

(4) ~~(5)~~ Hard of hearing shall mean a hearing impairment, whether permanent or fluctuating, which adversely affects educational performance but is not included under the term deaf in subdivision ~~(2)~~ (3) of this section;

~~(5)~~ (6) Mentally retarded child shall mean a child who has a significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period which adversely affects the child's educational performance;

~~(6)~~ (7) Multihandicapped child shall mean a child who has concomitant impairments, such as mentally retarded-blind or mentally

retarded-orthopedically impaired, the combination of which causes such severe educational problems that such child cannot be accommodated in special education programs for one of the impairments. The term shall not include deaf-blind children;

(7) (8) Orthopedically impaired child shall mean a child who has a severe orthopedic impairment which adversely affects such child's educational performance. Severe orthopedic impairments shall include impairments caused by (a) congenital anomaly, including, but not limited to, clubfoot or absence of a member, (b) disease, including, but not limited to, poliomyelitis or bone tuberculosis, or (c) other causes, including, but not limited to, cerebral palsy, amputations, and fractures and burns which cause contractures;

(8) (9) Other health impaired child shall mean a child:

~~(a) Having an autistic condition which is manifested by severe communication and other developmental and educational problems; or~~

~~(b) Having~~ having limited strength, vitality, or alertness due to chronic or acute health problems, including, but not limited to, a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational performance;

(9) (10) Specific learning disability shall mean a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such term shall include, but not be limited to, perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia;

~~(10)~~ (11) Speech and language-impaired child shall mean a child with a communication disorder such as stuttering, impaired articulation, language impairments, or voice impairment which adversely affects the child's educational performance; ~~and~~

(12) Traumatic brain injury shall mean an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term shall apply to open or closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury shall not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma; and

(13) (14) Visually handicapped child shall mean a partially seeing or blind child whose visual impairment, even with correction, adversely affects the child's educational performance.

The State Department of Education shall be authorized to group or subdivide the classifications of handicapped children for the

purpose of program description and reporting.

Sec. 63. That section 79-3354, Revised Statutes Supplement, 1992, be amended to read as follows:

79-3354. (1) Any party aggrieved by the findings, conclusions, or final decision and order of the hearing officer shall be entitled to judicial review under this section. Any party of record also may seek enforcement of the final decision and order of the hearing officer pursuant to this section.

(2) Proceedings for judicial review shall be instituted by filing a petition in the district court of the county where the main administrative offices of the school district are located within thirty days after service of the final decision and order on the party seeking such review. All parties of record shall be made parties to the proceedings. The court, in its discretion, may permit other interested parties to intervene.

(3) The filing of a petition for judicial review shall operate to stay the enforcement of the final decision and order of the hearing officer. While judicial proceedings are pending and unless the school district and the parent or guardian otherwise agree, the child shall remain in his or her current educational placement or if applying for initial admission to a public school such child shall, with the consent of the parent or guardian, be placed in the public school program until all such proceedings have been completed. If the health or safety of the child or of other persons would be endangered by delaying a change in assignment, the school district may make such change without prejudice to the rights of any party.

(4) Within fifteen days after receiving notification that a petition for judicial review has been filed or if good cause is shown within such further time as the court may allow, the State Department of Education shall prepare and transmit to the court a certified transcript of the proceedings before the hearing officer. ~~Any deposition or exhibit introduced before the hearing officer shall, upon demand of the party who introduced such deposition or exhibit, be returned to such party for use in the review proceedings.~~

(5) Judicial review shall be conducted by the court without a jury. The court shall receive the records of the administrative proceedings, hear additional evidence at the request of a party, base its decision on the preponderance of the evidence, and grant such relief as the court determines is appropriate.

(6) An aggrieved party may secure a review of any final judgment of the district court under this section by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided by law for appeals in civil cases and shall be heard de novo on the record.

(7) When no petition for judicial review or other civil action is filed within thirty days after service of the final decision and order on all of the parties, the hearing officer's final decision and order shall become effective. Proceedings for enforcement of a hearing officer's final decision and order shall be instituted by filing a petition for appropriate relief in the

district court of the county where the main administrative offices of the school district are located within one year after the date of the hearing officer's final decision and order.

Sec. 64. That section 79-3403, Revised Statutes Supplement, 1992, be amended to read as follows:

79-3403. (1) An enrollment option program is hereby established to enable any kindergarten through twelfth grade Nebraska student to attend a school in a Nebraska public school district in which the student does not reside subject to the limitations prescribed in section 79-3407. The option shall be available only once to each student prior to graduation unless (a) the student relocates in a different resident school district, (b) the option school district merges with another district, or (c) the option school district is a Class I district. The option student shall be given the option to attend school in another district at the time of relocation or merger or upon completion of the grades offered at the Class I district.

(2) The program shall not apply to (a) ~~any student in the ninth, tenth, eleventh, or twelfth grade who resides in a Class I district that is not part of a Class VI district and has not affiliated with a high school district as defined in section 79-101.02 pursuant to the Reorganization of School Districts Act,~~ (b) any student who resides in a Class I district which has not affiliated and which contracts or has contracted in either or both of the two prior school years with another district or districts in such student's grade level pursuant to section 79-486; or (e) ~~(b)~~ any student who resides in a district which has entered into an annexation agreement pursuant to section 79-801, except that such student may transfer to another district which accepts option students.

Sec. 65. That section 79-3405, Revised Statutes Supplement, 1992, be amended to read as follows:

79-3405. (1) ~~For the 1990-91 school year, participation in the enrollment option program shall be voluntary and shall be agreed upon by both the resident school district and the option school district.~~

(2) ~~For the 1991-92 school year, participation in the program shall be voluntary on the part of the option school district. The resident school district shall be required to participate in the program until more than five percent of the students, based upon resident enrollment set out in the fall school district membership report required by law, choose to attend option school districts at which time the resident school district may choose not to participate further in the program.~~

(3) ~~For the 1992-93 school year, participation in the program shall be voluntary on the part of the option school district. The resident school district shall be required to participate in the program until an additional five percent of the students, based upon resident enrollment set out in the fall school district membership report required by law, choose to attend option school districts at which time the resident school district may choose not to participate further in the program.~~

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

~~(5) In no event shall the number of students who may participate in the program from the resident school district be less than one student for the 1991-92 school year and for the 1992-93 school year.~~

~~(6) For purposes of subsections (2) and (3) of this section, if a resident school district has more than five percent of its students apply for participation in the program, priority for participation shall be given to siblings of option students.~~

Sec. 66. That section 79-3406, Revised Statutes Supplement, 1992, be amended to read as follows:

79-3406. (1)(a) Except as provided in subdivision (b) of this subsection, for ~~For~~ a student to attend a school in an option school district, the student's parent or legal guardian shall submit an application to the school board or board of education of the option school district ~~and of the resident school district and to the State Department of Education~~ between September 1 and January 1 for enrollment during the following and subsequent school years. Applications submitted after January 1 shall be accompanied by a written release from the resident school district. The option school district shall provide the resident school district with the name of the applicant on or before January 15. The option school district shall notify, in writing, the parent or legal guardian of the student, the resident school district, and the State Department of Education whether the application is accepted or rejected on or before April 1.

(b) For a student to attend school in an option school district whose resident school district has a desegregation plan adopted by the school board or the board of education or ordered by the federal court, the student's parent or legal guardian shall submit an application to the school board or board of education of the resident school district between September 1 and January 1 for enrollment during the following and subsequent school years. If the application is accepted, the resident school district shall notify, in writing, the option school district and the parent or legal guardian of the student on or before February 1. If the application is rejected, the resident school district shall notify, in writing, the parent or legal guardian of the student on or before February 1. If the application is accepted by the resident school district, the option school district shall notify, in writing, the parent or legal guardian of the student, the resident school district, and the State Department of Education whether the application is accepted or rejected by the option school district on or before April 1. The application shall set forth in detail the substantial educational opportunity available to the option student in the option school district that is unavailable in the resident school district. A particular school may be requested, but the school assignment of the option student shall be determined by the option school district.

(2) Applications for students who do not actually attend the option school district may be withdrawn in good standing upon mutual agreement by both the resident and option school districts.

(3) No option student shall attend an option school district for less than one school year unless the student relocates to a different

resident school district, completes requirements for graduation prior to the end of his or her senior year, transfers to a private or parochial school, or upon mutual agreement of the resident and option school districts cancels the enrollment option and returns to the resident school district.

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

(5) In each case of cancellation pursuant to subsections (3) and (4) of this section, the student's parent or legal guardian shall submit a cancellation form to notify the school board or board of education of the option school district and the resident school district and to the department by January 1 for automatic approval for the following school year. No student shall attend an option school district for less than one school year unless the student relocates to a different resident school district, completes requirements for graduation prior to the end of his or her senior year, or transfers to a private or parochial school.

(6) The application and cancellation forms shall be prescribed and furnished by the State Department of Education.

(7) An option student who subsequently chooses to attend a private or parochial school shall be automatically accepted to return to either the resident or option school district upon the completion of the grade levels offered at the private or parochial school. If such student chooses to return to the option school district, the student's parent or legal guardian shall submit another application to the school board or board of education of the option school district which shall be automatically accepted, and the deadlines prescribed in this section shall be waived.

Sec. 67. That section 79-3408, Revised Statutes Supplement, 1992, be amended to read as follows:

~~79-3408. On or before April 1, the option school district or the resident school district shall notify the parent or legal guardian of the student, the resident school district, if applicable, and the State Department of Education, in writing, whether the application is accepted or rejected. If an application is rejected by the option school district or by the resident school district, the rejecting school district shall state in the notification the reason for the rejection. The parent or legal guardian may appeal a rejection to the State Board of Education within thirty days of the date the notification of the rejection was received by the parent or legal guardian. Such hearing shall be held in accordance with the Administrative Procedure Act and shall determine whether the procedures of sections 79-3403 to 79-3409 79-3410 have been followed.~~

Sec. 68. That section 79-3409, Revised Statutes Supplement, 1992, be amended to read as follows:

79-3409. (1) Upon agreement of the school boards or boards of education of the resident school district and the option school district, the deadlines for application and approval or rejection prescribed in sections section 79-3406 ~~and 79-3408~~ may be waived.

(2) The application of a student who relocates in a different school district but wants to continue attending his or her original resident school district and who has been enrolled in his or her original resident school district for the immediately preceding two years and the application of any sibling of any such student to attend kindergarten or first grade in such original resident school district shall be automatically accepted, and the deadlines prescribed in ~~sections~~ section 79-3406 ~~and 79-3408~~ shall be waived.

(3) The application of an option student who relocates in a different school district but wants to continue attending the option school district shall be automatically accepted, and the deadlines prescribed in ~~sections~~ section 79-3406 ~~and 79-3408~~ shall be waived.

(4) The sibling of any option student shall be automatically accepted as an option student in the district in which the option student is enrolled and all deadlines imposed by ~~sections~~ section 79-3406 ~~and 79-3408~~ shall be waived if the sibling makes application for participation in the enrollment option program for the same school year as the option student first makes application or, if the sibling is not yet of school age for the school year for which the option student first made application, the sibling makes application for the first school year in which the sibling is of school age. Capacity limitations of the option district shall be waived as to siblings who meet the requirements for automatic acceptance as option students under this section.

Sec. 69. That section 79-3410, Revised Statutes Supplement, 1992, be amended to read as follows:

79-3410. (1) Except as provided in subsection (2) of this section, section 79-490 shall not apply to the transportation of an option student. The parent or legal guardian of the option student shall be responsible for required transportation. Beginning with the 1993-94 school year, a school district may upon mutual agreement with the parent or legal guardian of an option student provide transportation to the option student. The school district may charge the parents of each option student transported a fee sufficient to recover the additional costs of such transportation.

(2) Parents or guardians of option students who qualify for free or reduced-price lunches shall be eligible for transportation reimbursement as described in section 79-490. The —which reimbursement shall be made by the State Department of Education shall reimburse the option school district for transportation expenses paid to the parents of qualifying option students or incurred in actual transportation of qualifying option students. Parents or guardians of qualified option students shall complete a form prescribed by the department. If a parent or guardian of a qualified qualifying option student has an agreement with the option school district for the provision of transportation, the reimbursement payment shall be made to the district providing such transportation and shall include reimbursement only for those miles actually traveled beyond the normal route the department shall reimburse the option school district only if option students who are not eligible for

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

(3) For option students verified as handicapped as defined in section 79-3309, the transportation services set forth in section 79-3322 shall be provided by the resident school district. The department shall reimburse the resident school district for the cost of transportation in accordance with section 79-3333.

Sec. 70. That section 79-3703, Revised Statutes Supplement, 1992, be amended to read as follows:

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

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

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

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

(5) The pilot projects shall continue for three calendar years, and by July 1, ~~1994~~ 1995, the department shall conduct an overall evaluation of the success or failure of the pilot projects and components thereof. A report evaluating the pilot projects shall be made to the State Board of Education and the Legislature by November 30, ~~1994~~ 1995.

Sec. 71. That section 79-3806, Revised Statutes Supplement, 1992, be amended to read as follows:

79-3806. (1) Except as provided in subsections (2) through ~~(6)~~ (7) of this section, each district shall receive equalization aid in the amount that the total formula need of each district, as determined pursuant to subsection ~~(4)~~ (5) of this section and sections 79-3805 and 79-3807, exceeds its total formula resources as determined pursuant to subsection ~~(4)~~ (5) of this section and sections 79-3808 to 79-3811.

(2) A district shall not receive state aid for each of the school years 1992-93, 1993-94, and 1994-95 which is less than one hundred percent of the amount of aid received pursuant to the School Foundation and Equalization Act for school year 1989-90.

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

(4) For the calculation of state aid to be paid in school year 1993-94 and each school year thereafter in Class I districts which have more than one general fund levy in the current year, the department shall base the calculation on a derived general fund levy for the district computed by adding the general fund property tax yield for all portions of the district and dividing the result by the total assessed valuation of the district in hundreds.

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

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

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

(c) Each district's total formula need, total formula resources, and difference calculated pursuant to subdivision (b) of this

subsection shall be added to arrive at system formula need, system formula resources, and system total difference;

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

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

~~(6)~~ ~~(5)~~ Beginning with school year 1994-95, a district which does not generate equalization aid pursuant to subsection (1) of this section and in which option students as defined in section 79-3402 were actually enrolled in the most recently available complete data year shall receive additional state aid for each such student in an amount equal to the statewide average tiered cost per student or the option school district's tiered cost per student, whichever is less.

~~(7)~~ ~~(6)~~ For school years 1992-93 and 1993-94, a district which does not generate equalization aid pursuant to subsection (1) of this section and in which option students as defined in section 79-3402 were actually enrolled in the most recently available complete data year shall receive additional state aid computed by first multiplying the number of such option students, by grade group, by the district's tiered cost per student for each grade group and then summing the results for all grade groups in the district. The district shall receive additional state aid equal to the amount by which this calculation exceeds the district's actual receipts pursuant to section 79-3415 in the most recently available complete data year.

Sec. 72. That section 79-3822, Revised Statutes Supplement, 1992, be amended to read as follows:

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

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

(2) Appropriate an amount of income tax revenue received to insure that twenty percent of all income tax receipts are dedicated to the support of districts throughout the state;

(3) Appropriate an amount equal to any state aid funds which have been returned to the General Fund from an earlier appropriation due to the repayment of funds by districts; and

~~(4)~~ ~~(3)~~ Establish and implement a basic allowable growth rate and an allowable growth range for district budgets for the ensuing school year.

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

Sec. 73. That section 79-3824, Revised Statutes

Supplement, 1992, be amended to read as follows:

79-3824. (1) State aid payable pursuant to the Tax Equity and Educational Opportunities Support Act for each school year shall be based upon data found in applicable reports for the most recently available complete data year. The annual financial reports of all school districts shall be submitted to the Commissioner of Education pursuant to the date prescribed in subdivision (3) of section 79-451. If a school district fails to timely submit its report, the commissioner, after notice to the district and an opportunity to be heard, shall direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the report is received by the department. In addition, the commissioner shall notify the county superintendent to direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county superintendent of receipt of such report. The county treasurer shall withhold such money.

(2) A district which receives federal funds in excess of twenty-five percent of its general fund budget of expenditures may apply for early payment of state aid paid pursuant to the Tax Equity and Educational Opportunities Support Act when such federal funds are not received in a timely manner. Such application may be made at any time by a district suffering such financial hardship and may be for any amount up to fifty percent of the remaining amount to which the district is entitled during the current fiscal year. The state board may grant the entire amount applied for or any portion of such amount if, ~~after a hearing,~~ the state board finds that a financial hardship exists in the district. The state board shall notify the Director of Administrative Services of the amount of funds to be paid in lump sum and the reduced amount of the monthly payments. The Director of Administrative Services shall, at the time of the next state aid payment made pursuant to section 79-3813, draw a warrant for the lump-sum amount from appropriated funds and forward such warrant to the district. For purposes of this subsection, financial hardship shall mean a situation in which income to a district is exceeded by liabilities to such a degree that if early payment is not received it will be necessary for the district to discontinue vital services or functions.

Sec. 74. The State Board of Education and the State Department of Education may sponsor and direct the activities of FFA, Future Homemakers of America, Future Business Leaders of America, Vocational Industrial Clubs of America, DECA - An Association of Marketing Students, Health Occupation Student Association, Young Farmers and Ranchers Educational Association, Technology Students Association, and Phi Beta Lambda. The duties of the department may include, but need not be limited to, the following:

(1) Establish policies and procedures for the operation of the organizations listed in this section;

(2) Supervise students involved in such organizations;

(3) Hold periodic conferences, meetings, and functions to train, recognize, and reward student participants;

(4) Provide scholarships and suitable awards to outstanding student participants;

(5) Coordinate activities of state-level groups with activities of any related local or national organization;

(6) Organize and supervise travel to and from meetings, both inside and outside of the state;

(7) Prepare and issue publications concerning such organizations;

(8) Train state and local organization leaders and officers;

(9) Collect dues from local organizations and members and pay dues to national organizations related to state-level student groups;

(10) Procure insurance, at the option of the board and the department, for student members or officers of such organizations; and

(11) Manage the finances of such organizations through the State Department of Education Cash Fund as provided in section 75 of this act.

Sec. 75. Money received by organizations referred to in section 74 of this act shall be remitted to the State Treasurer for credit to the State Department of Education Cash Fund. Each organization shall have a separate account within such fund, and money received by such organization shall be credited to such separate account. Money in the account may be used for student organization expenditures which include, but are not limited to, trophies, gifts to honorees, scholarships, prizes, national dues, entertainment at state conferences, food, and beverages.

Sec. 76. When sponsored by the State Department of Education, student organizations referred to in section 74 of this act shall be considered an integral part of the department, and state-level chapters of such organizations shall not have separate corporate status. The department may enter into agreements with the corporate entities of national organizations for the use of names, logos, and other benefits of such organizations. Such organizations may, at the discretion of the State Board of Education, include postsecondary, adult, or alumni members in their activities.

Sec. 77. The State Board of Education shall adopt and promulgate rules and regulations to carry out sections 74 to 76 of this act.

Sec. 78. That section 81-501.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-501.01. The Governor shall, with the advice and consent of the Legislature, appoint a State Fire Marshal; who shall, under the general direction and supervision of the Governor, perform the duties and exercise the powers and have the rights and privileges conferred by sections 81-501.01 to 81-531 and sections 86 to 92 of this act. He or she may be removed from office at the pleasure of the Governor.

Sec. 79. That section 81-502, Revised Statutes Supplement, 1992, be amended to read as follows:

81-502. (1) It shall be the duty of the State Fire Marshal, under authority of the Governor:

(a) To enforce all laws of the state relating to the

suppression of arson and investigation of the cause, origin, and circumstances of fires;

(b) To promote safety and reduce loss by fire;

(c) To make an investigation for fire safety of the premises and facilities of:

(i) Liquor establishments for which a license or renewal of a license is sought, upon request of the Nebraska Liquor Control Commission, pursuant to section 53-119.01;

(ii) Licensed child care facilities or applicants for licenses for child care facilities, upon request by the Department of Social Services, pursuant to section 71-1903;

(iii) Licensed providers of early childhood programs or applicants for licenses to provide such programs, upon request of the Department of Social Services, pursuant to section 71-1913. The State Fire Marshal shall report the results of the investigation to the department within thirty days after receipt of the request from the department;

(iv) Licensed hospitals, skilled nursing facilities, intermediate care facilities, or other facilities or institutions which are mentioned in subdivision (1) of section 71-2017 or applicants for licenses for such facilities or institutions, upon request by the Department of Health, pursuant to section 71-2022; and

(v) Mobile home parks for which a license or renewal of a license is sought, upon request of the Department of Health, pursuant to section 71-4635; and

(d) After a careful study and investigation of relevant data bearing thereon, to adopt, promulgate, alter, and enforce rules and regulations covering:

(i) The prevention of fires;

(ii) The storage, sale, and use of flammable liquids, combustibles, and fireworks;

(iii) Electric wiring and heating, protection equipment devices, materials, furnishings, and other safeguards within the structure necessary to promote safety and reduce loss by fire, and the means and adequacy of exits, in case of fire, in assembly, educational, institutional, residential, mercantile, office, storage, and industrial-type occupancies as such structures are defined in the National Fire Protection Association, Pamphlet Number 101, and associated pamphlets, and all other buildings, structures, and enclosures in which numbers of persons congregate from time to time for any purpose whether privately or publicly owned;

(iv) Design, construction, location, installation, and operation of equipment for storing, handling, and utilization of liquefied petroleum gases, specifying the odorization of such gases and the degree thereof;

(v) Chemicals, prozolin plastics, X-ray nitrocellulose films, or any other hazardous material that may now or hereafter exist; and

(vi) Tanks used for the storage of regulated substances pursuant to the Petroleum Products and Hazardous Substances Storage and Handling Act.

(2) The State Fire Marshal may enter into contracts with private individuals or other agencies, boards, commissions, or governmental bodies for the purpose of carrying out his or her duties and responsibilities pursuant to sections 81-502 to 81-552 and 81-5115 the Arson Reporting Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of 1969, sections 86 to 92 of this act, and sections 81-502 to 81-541.01 and 81-5.132 to 81-5.146.

(3) The State Fire Marshal may delegate the authority set forth in this section to qualified local fire prevention personnel. The State Fire Marshal may overrule a decision, act, or policy of the local fire prevention personnel. When the State Fire Marshal overrules the local personnel, such local personnel may follow the appeals procedure established by sections 81-502.01 to 81-502.03. Such delegation of authority may be revoked by the State Fire Marshal for cause upon thirty days' notice after a hearing.

(4) The State Fire Marshal, first assistant fire marshal, and deputies shall have such other powers and perform such other duties as are set forth in sections 81-501.01 to 81-531 and sections 86 to 92 of this act and as may be conferred and imposed by law.

(5) The rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section may conform generally to the standards recommended by the National Fire Protection Association, Pamphlet Number 101, known as the Life Safety Code, and associated pamphlets, but not when doing so would impose an unduly severe or costly burden without substantially contributing to the safety of persons or property. This section and the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall apply to existing as well as new buildings, structures, and enclosures. Such rules and regulations shall also apply to sites or structures in public ownership listed on the National Register of Historic Places but without destroying the historic quality thereof.

(6) Plans for compliance with the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall be reviewed by the State Fire Marshal.

Sec. 80. That section 81-503, Revised Statutes Supplement, 1992, be amended to read as follows:

81-503. (1) The State Fire Marshal may appoint a first assistant fire marshal and such deputies, inspectors, and other persons as in his or her discretion may be necessary to carry into effect sections 81-501.01 to 81-531 and sections 86 to 92 of this act, the Nebraska Natural Gas Pipeline Safety Act of 1969, the Petroleum Products and Hazardous Substances Storage and Handling Act, and any other statutory duties imposed upon the State Fire Marshal. He or she may also, at his or her pleasure, remove such first assistant and any of such deputies as he or she may deem advisable. The deputies and inspectors shall perform such duties and have and enjoy all the rights, privileges, and immunities granted by law. The State Fire Marshal may also employ such clerical assistants, office employees, and other persons as he or she may deem

advisable and necessary to carry such duties into effect.

(2) The State Fire Marshal, the first assistant fire marshal, each deputy, and each inspector shall wear full uniform when performing statutory duties. The State Fire Marshal shall determine the type of clothing, in relation to the duty being performed, necessary to meet the full uniform requirement.

Sec. 81. That section 81-505, Revised Statutes Supplement, 1992, be amended to read as follows:

81-505. The duties of the first assistant and the deputies shall be to operate under the direction of and to assist the State Fire Marshal in the execution of sections 81-501.01 to 81-531 and sections 86 to 92 of this act and the Nebraska Natural Gas Pipeline Safety Act of 1969. In the event of a vacancy in the office of State Fire Marshal and until a successor is appointed or during the absence or disability of that officer, the first assistant fire marshal, with the assent and approval of the Governor, shall assume the duties of that office.

Sec. 82. That section 81-525, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-525. All records on file in the State Fire Marshal's office shall be public, except any testimony, correspondence, or other matter taken in an investigation or an inspection by, or in a report to, the State Fire Marshal under the provisions of the Nebraska Natural Gas Pipeline Safety Act of 1969, sections 81-501.01 to 81-531, and sections 86 to 92 of this act ~~and 81-542 to 81-550~~ which he or she in his or her discretion may withhold from the public.

Sec. 83. That section 81-528, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-528. (1) Except as provided in subsection (2) of this section, all money received from inspection contracts, penalties, fees, or forfeitures, excepting fines collected under the provisions of sections 81-501.01 to 81-531 and sections 86 to 92 of this act, shall be ~~paid into the treasury of the state for the benefit of~~ remitted to the State Treasurer for credit to the State Fire Marshal Fund. Any money in the State Fire Marshal Fund available for investment shall be invested by the state investment officer pursuant to ~~the provisions of~~ sections 72-1237 to ~~72-1269~~ 72-1276.

(2) All fees assessed pursuant to section 81-505.01 for services performed by the State Fire Marshal and money collected pursuant to sections 87 and 88 of this act shall be remitted to the State Treasurer for credit to ~~paid into the treasury of the state for the benefit of~~ the State Fire Marshal Cash Fund; which is hereby created. Any money in the State Fire Marshal Cash Fund available for investment shall be invested by the state investment officer pursuant to ~~the provisions of~~ sections 72-1237 to ~~72-1269~~ 72-1276.

Sec. 84. That section 81-529, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-529. It is declared that sections 81-501.01 to 81-531 and sections 86 to 92 of this act are in nature necessary for the public

safety, health, peace, and welfare; and shall be liberally construed.

Sec. 85. That section 81-551, Revised Statutes Supplement, 1992, be amended to read as follows:

81-551. The duties and powers of the State Fire Marshal and of his or her deputies and assistants prescribed in sections 81-509 to 81-523, 81-526, 81-527, and 81-531 to 81-538, sections 86 to 92 of this act, and the Petroleum Products and Hazardous Substances Storage and Handling Act shall not be applicable to the Nebraska Natural Gas Pipeline Safety Act of 1969.

Sec. 86. That section 79-1430, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~79-1430. The State Board of Vocational Education shall establish a statewide training program for fire department personnel and others involved in fire safety training for the purpose of developing and maintaining fire department skills and safety operations. The State Fire Marshal shall establish a training division for purposes of operating a statewide training program for fire department personnel, others involved in fire safety training, and other emergency responders that may require specialized training available from the training program for the purposes of developing, maintaining, and updating fire department skills and other skills of those emergency responders requiring specialized training available from the training program. The board State Fire Marshal in establishing a training program may division shall (1) conduct courses training, (2) set fees for manuals and training courses, (3) certify fire department personnel, (4) give technical assistance to fire departments and rescue squads, (5) respond to emergencies, and (6) conduct controlled educational burnings, and other emergency responders requiring specialized training available from the training program, and (4) conduct live fire training. The State Fire Marshal in establishing such training may also give technical assistance to rescue squads and respond to emergencies upon request for technical assistance. Fees for manuals and training shall be collected pursuant to section 87 of this act.~~ Nothing in this section shall require mandatory participation by fire departments, individuals, or others interested in fire safety training or other specialized training available from the training program.

Sec. 87. The training program as set out in section 86 of this act for volunteer fire departments and career fire departments shall be free, except that the State Fire Marshal may charge for such books and materials given to the students, testing, or specialized courses.

The State Fire Marshal may charge a fee for providing to private fire departments training, books, materials, testing, or specialized courses.

The State Fire Marshal shall charge a fee for providing to industrial fire brigades training, books, materials, testing, and specialized courses.

Sec. 88. That section 79-1431, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~79-1431.~~ Money collected pursuant to section 87 of this

act under the terms of section 79-1430 shall be remitted to the State Treasurer for credit to the State Fire Marshal Cash Fund. Such funds shall be for the purpose of administering the training program established pursuant to sections 86 to 92 of this act.

Any unobligated money in the State Department of Education Cash Fund remitted for the purpose of administering the training program for fire department personnel and others involved in fire safety training for developing and maintaining fire department skills and safety operations on the operative date of this section shall be transferred to the State Fire Marshal Cash Fund on or after such date, deposited in the State Department of Education Cash Fund and expended in administering the training program established pursuant to sections 79-1429 to 79-1434.

Sec. 89. That section 79-1432, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~79-1432. The State Fire Marshal shall Board of Vocational Education may~~ create a Firefighters Training Advisory Committee which shall advise the ~~board~~ State Fire Marshal in administering any training program established under sections ~~79-1429 to 79-1434~~ 86 to 92 of this act. The committee shall consist of five members to be appointed by the ~~board~~ State Fire Marshal. The members shall be persons well qualified by experience or education in the field of fire protection and related fields.

Sec. 90. That section 79-1433, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~79-1433. Members of the committee~~ Firefighters Training Advisory Committee shall serve for terms of six years, except that; of the members first appointed, three shall be appointed for terms of four years; and two shall be appointed for terms of six years, as designated in the original appointment. An appointee to a vacancy shall serve out the term of his or her predecessor. Members whose terms have expired shall continue to serve until their successors have been appointed.

Sec. 91. That section 79-1434, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~79-1434. The members of the committee~~ Firefighters Training Advisory Committee shall receive no compensation for their services as such but shall be reimbursed for their actual and necessary expenses in attending meetings of the committee and in carrying out their official duties as provided in section 81-1174, ~~for state employees.~~

Sec. 92. The Fire Service and Safety Training Program is hereby transferred to the State Fire Marshal. All personnel of the program in the State Department of Education who manage, teach, are office personnel, or are involved in the running of the program shall be transferred to the office of the State Fire Marshal on the operative date of this section.

All furniture, equipment, books, files, records, leases, and other property used by the Nebraska Fire Service shall be transferred and delivered to the State Fire Marshal on the operative date of this section.

Sec. 93. Sections 7 to 9, 12, 44 to 47, 64 to 69, and 94 of this act shall become operative July 1, 1993. Sections 78 to 92 of this act shall become operative July 1, 1993, except that necessary action preparatory to their implementation may be taken prior to such date. Sections 2, 3, 25 to 28, 51 to 61, and 95 of this act shall become operative three calendar months after the adjournment of this legislative session. The other sections of this act shall become operative on their effective date.

Sec. 94. That original sections 79-201.01 to 79-201.03, 79-1430 to 79-1434, 81-501.01, 81-525, 81-528, and 81-529, Reissue Revised Statutes of Nebraska, 1943, and sections 79-330, 79-1421, 79-1422, 79-1423, 79-1429, 79-3403, 79-3405, 79-3406, 79-3408 to 79-3410, 81-502, 81-503, 81-505, and 81-551, Revised Statutes Supplement, 1992, and also section 79-341, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 95. That original sections 17-601.01, 17-601.02, 79-803.03, 79-803.08, and 79-803.09, Reissue Revised Statutes of Nebraska, 1943, and sections 79-803.07, 79-2801, 79-2804, 79-2812, 79-2842, 79-2844, and 79-2845, Revised Statutes Supplement, 1992, are repealed.

Sec. 96. That original sections 79-307, 79-321.03, 79-435, 79-464, 79-507, 79-521, 79-1281, 79-1281.01, 79-1286, 79-2110, and 79-3309, Reissue Revised Statutes of Nebraska, 1943, and sections 10-716.01, 77-3439, 79-101, 79-101.01, 79-402.11, 79-426.28, 79-433, 79-434, 79-444, 79-488.04, 79-490, 79-4,207, 79-547.03, 79-1247.07, 79-1282 to 79-1285, 79-1303, 79-2210, 79-3354, 79-3703, 79-3806, 79-3822, and 79-3824, Revised Statutes Supplement, 1992, and also sections 79-321.02, 79-321.04, and 79-403.04, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 97. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.