

LEGISLATURE OF NEBRASKA
NINETY-FIRST LEGISLATURE
SECOND SESSION

Legislative Bill 1059

Introduced by Withem, 14; Moore, 24; Baack, 47; Barrett, 39; Beck, 8; Beyer, 3; Bernard-Stevens, 42; Byars, 30; Chizek, 31; Conway, 17; Coordsen, 32; Crosby, 29; Elmer, 38; Hall, 7; Hartnett, 45; R. Johnson, 34; Korshoj, 16; Kristensen, 37; Landis, 46; Lindsay, 9; Lynch, 13; Morrissey, 1; Nelson, 35; Pirsch, 10; Robak, 22; Rogers 41; Schellpeper, 18; Schimek, 27; Scofield, 49; Smith, 33; Wehrbein, 2; Weihing, 48

Read first time January 9, 1990

Committee: Education and Revenue

A BILL

FOR AN ACT relating to school financing; to amend sections 77-2701.02, 79-490, 79-1369, and 79-12,145, Reissue Revised Statutes of Nebraska, 1943, sections 77-678 and 77-2701.01, Revised Statutes Supplement, 1988, and sections 72-1237.01, 79-451, and 79-4,102, Revised Statutes Supplement, 1989; to adopt the Tax Equity and Educational Opportunities

Support Act; to increase the income tax; to increase the sales tax; to eliminate the School Foundation and Equalization Act; to harmonize provisions; to provide severability; to repeal the original sections, and also sections 79-1332, 79-1332.01, 79-1333.01, 79-1334, 79-1336 to 79-1344.01, and 79-1368, Reissue Revised Statutes of Nebraska, 1943, sections 79-1335 and 79-1344.03, Revised Statutes Supplement, 1988, and sections 79-1330, 79-1333, 79-1333.02, and 79-1344.02, Revised Statutes Supplement, 1989; and to declare an emergency.

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

Section 1. Sections 1 to 24 of this act shall be known and may be cited as the Tax Equity and Educational Opportunities Support Act.

Sec. 2. (1) The Legislative hereby finds and declares that:

(a) Nebraska currently finances over seventy percent of the costs of operating its public school system from the property tax and other local sources while nationally only forty-three percent of the costs are supported by property taxes and other local sources;

(b) State support for the public school system has not kept pace with the increased costs of operating such system;

(c) Nebraska has a higher per capita property tax burden than most other states while the overall state and local per capita tax burden in the state is below the national average;

(d) The cost of operating the public school system is near the national average in per pupil cost as well as per capita spending;

(e) The overreliance on property tax for or the support of the public school system has resulted in great disparities in local property tax rates; and

(f) The overreliance on the property tax for the support of the public school system has created

inequitable educational fiscal resources for students.

(2) It is the intent, purpose, and goal of the Legislature to create a system of financing the public school system which will:

(a) Provide state support from all sources of state funding for forty-five percent of the general fund operating expenditures of school districts;

(b) Reduce the reliance on the property tax for the support of the public school system;

(c) Broaden financial support for the public school system by dedicating a portion of the revenue received from the state income tax for support of the system;

(d) Keep pace with the increasing cost of operating the public school system;

(e) Assure each district a foundation support level for the operation of schools within each district taking into consideration the taxable wealth and other accessible resources of the district;

(f) Assure a greater level of equity of educational opportunities for students in all districts;

(g) Assure a greater level of equity in property tax rates for the support of the public school system; and

(h) Assure that there is a shift to

sustainable revenue sources, other than property tax, for the support of the public school system through the establishment of limits on the growth of general fund budgets of districts.

Sec. 3. For purposes of the Tax Equity and Educational Opportunities Support Act:

(1) Adjusted valuation shall mean the assessed a valuation of taxable property of each school district in the state adjusted pursuant to the adjustment factors described in section 9 of this act;

(2) Average daily membership shall mean the average daily membership as provided in each districts annual financial report and annual statistical summary;

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

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

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

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

(7) District shall mean any Class I, II, III, IV, V, or VI school district, and for purposes of sections 1 to 13 of this act, the nonresident high school tuition fund of each county;

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

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

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

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

(12) General fund budgeted expenditures shall mean the total budgeted expenditures for general fund purposes as certified in the budget statement adopted pursuant to the Uniform Budget Act;

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

(14) General fund operating expenditures shall mean the total general fund expenditures minus

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

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

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

(17) State aid shall mean the amount of assistance paid to a district pursuant to sections 6 to 13 of this act;

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

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

(20) Tuitioned resident students shall mean resident students of the school district whose tuition is paid by the district to some other school district or education agency.

Sec. 4. (1) Beginning in fiscal year 1990-91, twenty percent of the projected state income tax receipts shall be dedicated to the use and support of the public school system.

(2) Not later than January 1 of each year, the Tax Commissioner shall certify to the department for the second preceding tax year (a) twenty percent of the income tax receipts of resident individuals for each Class I, Class II, Class III, Class IV, and Class V school district in the state in which ten or more resident individual income tax returns were filed and (b) twenty percent of the income tax receipts of resident individuals of all Class I, Class II, Class III, Class IV, and Class V districts in which less than ten resident individual income tax returns were filed, together with a list of such districts and funds, to the department.

(3) Utilizing the data certified by the Tax Commissioner pursuant to subdivision (2) of this section, the department shall, on or before March 1 of each year calculate each district's allocable resident

individual income tax receipts as follows: (a) Each district identified in subdivision (2)(b) of this section shall be preliminarily allocated a share of the sum total income tax receipts for such subdivision based on its pro rata share of the total adjusted valuation of all such districts; and (b) each district identified in subdivision (2)(a) shall receive the following allocations of resident income tax receipts:

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

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

(iii) For each Class I district which is part of a Class VI district which offers instruction in grades seven through twelve, 44.8276 percent of the

certified income tax receipts shall be allocated to such Class I district, and the remainder shall be allocated to the Class VI district; and

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

(4) The remainder of tile amount dedicated pursuant to subsection (1) of this section, which includes income tax receipts from all other entities and resident individual income tax receipts which cannot be reasonably identified as payments from residents of specific districts, shall be determined by the Tax Commissioner for the second preceding tax year. Based on income tax projections provided by the Nebraska Economic Forecasting Advisory Board, the Legislative Fiscal Office, and the Department of Revenue, the Legislature shall annually appropriate an amount approximating the total income tax receipts allocable to districts and an amount approximating the remainder of such dedicated income tax receipts for the succeeding school year. The State Treasurer shall transfer such appropriated amounts to the School District Income Tax

Fund for distribution pursuant to this section and to the Tax Equity and Educational Opportunities Fund for distribution to districts pursuant to the distribution prescribed in sections 6 to 13 of this act. Within fifteen working days following the adjournment sine die of the Legislature, the department shall notify each district of the amount of individual income tax funds it will receive pursuant to this section.

Sec. 5. (1) Using data from the Annual Financial Reports and the Annual Statistical Summary Reports for the most recently available complete data year, the department shall calculate the tiered cost per student for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve for each district as described in subsections (2) through (8) of this section.

(2) Each district's general fund operating is expenditures for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve shall be computed as follows: (a) The weighted average daily membership for kindergarten shall equal the average daily membership for kindergarten multiplied by five-tenths; (b) the weighted average daily membership for grades one through six, including full-day kindergarten, shall equal the average

daily membership for such grades multiplied by one; (c) the weighted average daily membership for grades seven and eight shall equal the average daily membership such grades multiplied by one and two-tenths; (d) the weighted average daily membership for grades nine through twelve shall equal the average daily membership for such grades multiplied by one and four-tenths; and (e) the total weighted average daily membership shall equal the sum of grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve weighted average daily membership values. Each district's general fund operating expenditures for each grade group shall be calculated by dividing that group's weighted average daily membership by the total weighted average daily membership in the district and multiplying the result by the district's total general fund operating expenditures.

(3) Each district with general fund operating expenditures in grades one through six, including full-day kindergarten, shall be placed into a tier based upon the following schedule.

<u>Tier</u>	<u>Tier midpoint</u>	<u>Average daily membership range</u>
<u>1</u>	<u>50.50</u>	<u>.01 - 101.00</u>

<u>2</u>	<u>143.00</u>	<u>101.01 - 185.00</u>
<u>3</u>	<u>280.00</u>	<u>185.01 - 375.00</u>
<u>4</u>	<u>687.50</u>	<u>375.01 - 1,000.00</u>
<u>5</u>	<u>1,450.00</u>	<u>1,000.01 - 1,900.00</u>
<u>6</u>	<u>8,450.00</u>	<u>1,900.01 - 15,000.00</u>
<u>7</u>	<u>Median average daily membership of tier</u>	<u>15,000.01 and over</u>

The average general fund operating expenditures per student for grades one through six, including full-day kindergarten, shall be calculated for each tier by adding the total general fund operating expenditures of grades one through six, including full-day kindergarten for all districts in the tier and dividing by the total average daily membership for grades one through six, including full-day kindergarten, for all districts in the tier.

(4) Each district with general fund operating expenditures in grades nine through twelve shall be placed in a tier based on the following schedule.

<u>Tier</u>	<u>Tier midpoint</u>	<u>Average daily Membership range</u>
<u>1</u>	<u>25.00</u>	<u>.01 - 50.00</u>
<u>2</u>	<u>62.50</u>	<u>50.01 – 75.00</u>
<u>3</u>	<u>87.50</u>	<u>75.01 - 100.00</u>
<u>4</u>	<u>125.00</u>	<u>100.01 - 150.00</u>

<u>5</u>	<u>200.00</u>	<u>150.01 - 250.00</u>
<u>6</u>	<u>375.00</u>	<u>250.01 - 500.00</u>
<u>7</u>	<u>750.00</u>	<u>500.01 - 1,000.00</u>
<u>8</u>	<u>5,500.00</u>	<u>1,000.01 - 10,000.00</u>
<u>9</u>	<u>Median average daily</u> <u>membership of tier</u>	<u>10,000.01 and over</u>

The average general fund operating expenditures per student for grades nine through twelve shall be calculated for each tier by adding the total general fund operating expenditures for grades nine through twelve for all districts in the tier and dividing such sum by the total average daily membership for grades nine through twelve for all districts in the tier.

(5) Tiered cost per student values shall be computed for grades one through six, including full-day kindergarten, for each district as follows:

(a) For districts with average daily memberships for grades one through six, including full-day kindergarten. which are less than the midpoint of tier 1 for such grades, the tiered cost per student shall equal the average general fund operating expenditures per student for tier 1;

(b) For districts with average daily memberships for grades one through six, including

full-day kindergarten, which are greater than the midpoint of tier 7 for such grades, the tiered cost per student for such grades shall equal the average general fund operating expenditures per student for tier 7;

(c) For districts with average daily memberships for grades one through six, including full-day kindergarten, which fall on or between the midpoints of any two tiers, the tiered cost per student for such grades shall be calculated by means of a linear transition between the average general fund operating expenditures per student of the two tiers between whose midpoints the districts' average daily membership for such grades fall;

(6) Tiered cost per student values shall be computed for grades nine through twelve for each district as follows:

(a) For districts with average daily memberships for grades nine through twelve which are less than the midpoint of tier 1 for such grades, the tiered cost per student shall equal the average general fund operating expenditures per student for tier 1;

(b) For districts with an average daily memberships for grades nine through twelve which are greater than the midpoint of tier 9 for such grades, the tiered cost per student for such grades shall equal the

average general fund operating expenditures per student for tier 9;

(c) For districts with average daily memberships for grades nine through twelve which fall on or between the midpoints of any two tiers, the tiered cost per student for such grades shall be calculated by means of a linear transition between the average general fund operating expenditures per student of the two tiers between whose midpoints the districts' average daily membership for such grades fall;

(7) The tiered cost per student for kindergarten shall be calculated by multiplying each district's tiered cost per student for grades one through six, including full-day kindergarten, by five-tenths.

(8) The tiered cost per student for grades seven and eight shall be calculated as follows: For Class II, Class III, Class IV, and Class V districts, the tiered cost per student shall be the calculated mean of the district's tiered cost per student for grades one through six, including full-day kindergarten, and for grades nine through twelve; for Class I districts, the tiered cost per student shall be the district's tiered cost per student for grades one through six, including full-day kindergarten, multiplied by one and two-tenths;

and for Class VI districts providing instruction in grades seven and eight as authorized by section 79-1109, the tiered cost per student shall be the district's tiered cost per student for grades nine through twelve multiplied by one and two-tenths and the result divided by one and four-tenths.

(9) The tiered cost per :student for nonresident high school tuition funds shall be the average general operating expenditures for grades nine through twelve for all districts included in subsection (4) of this section.

Sec. 6. Each district shall receive state aid in the amount that the total formula needs of each such district, as determined pursuant to sections 5 and 7 of this act, exceed its total formula resources as determined pursuant to sections 8 to 11 of this act. The department shall annually compute state aid entitlements and notify all districts of such state aid entitlements within fifteen working days following the adjournment sine die of the regular session of the Legislature.

Sec. 7. Utilizing each district's tiered cost per student as determined in section 5 of this act, total formula need for each district shall be computed as follows: Formula students in each grade grouping of

kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve shall be multiplied by each such district's corresponding tiered cost per student in each grade grouping. The sum of such products shall be the district's total formula need.

Sec. 8. District formula resources shall include local effort rate yield which shall be determined by multiplying each district's total adjusted valuation by the local effort rate. The local effort rate shall be determined by the department annually within fifteen working days following the adjournment sine die of the regular session of the Legislature. The local effort rate shall be the rate which, when multiplied by the total adjusted valuation of all taxable property in districts receiving equalization aid pursuant to the Tax Equity and Educational Opportunities Act, will produce the amount needed to support the total formula need of such districts when added to state aid appropriated by the Legislature for the ensuing school year, income tax funds appropriated by the Legislature for allocation to districts for the ensuing school year, and other actual receipts of districts described in section 11 of this act. The local effort rate for Class I districts, Class VI districts, and county nonresident

high school tuition funds shall be based on the following schedule.

<u>District</u>	<u>Grades for which legally responsible</u>	<u>Percentage of local effort rate</u>
<u>Class I</u>	<u>kindergarten through six</u>	<u>46.8776</u>
<u>Class I</u>	<u>kindergarten through eight</u>	<u>61.3793</u>
<u>Class VI</u>	<u>seven through twelve</u>	<u>55.1724</u>
<u>Class VI</u>	<u>nine through twelve</u>	<u>38.6207</u>
<u>County non- resident high school tuition funds</u>	<u>nine through twelve</u>	<u>38.6207</u>

Sec. 9. On or before March 1 of each year the Department of Revenue shall compute and certify to the State Department of Education the adjusted valuation of each district for the second preceding tax year by application of an adjustment factor for each class of property in each such district taxing area so that the valuation of property for each district, for purposes of determining state aid pursuant to the Education Support Act, shall reflect as nearly as possible actual value as required by the laws and the Constitution of Nebraska.

Establishment of the adjustment factors shall be based on tile best available assessment practices.

Sec. 10. District formula resources shall include that portion of income tax receipts allocated to each such district pursuant to section 4 of this act.

Sec. 11. District formula resources shall include other actual receipts as determined by the State Department of Education for the most recently available complete data year. Other actual receipts shall include:

(1) Public power district sales tax revenue;

(2) Fines arid license fees;

(3) Nonresident high school tuition receipts;

(4) Tuition on receipts from individuals, other school districts, or any other source except those derived from adult education;

(5) Transportation receipts;

(6) Interest on investments;

(7) Other miscellaneous local receipts;

(8) Special education receipts;

(9) Receipts from the state for wards of the court and wards of the state;

(10) All receipts from the Temporary School Fund;

(11) Receipts from the Insurance Tax Fund;

(12) Pro rata motor vehicle license fee receipts;

(13) Help Education Lead to Prosperity Act funds;

(14) Other miscellaneous state receipts;

(15) Impact aid receipts to the extent allowed by federal law;

(16) Johnson O'Malley receipts; and

(17) All other noncategorical federal receipts.

Sec. 12. There are hereby created in the state Treasury the School District Income Tax Fund and the Tax Equity and Educational Opportunities Fund each of which shall consist of such sums as the Legislature may appropriate and shall be administered by the state board. The School District Income Tax Fund shall receive resident individual income tax appropriations made by the Legislature and to make payments to districts of allocable income tax funds. The Tax Equity and Educational Opportunities Fund shall receive dedicated income tax appropriations and appropriations made to fund sections 6 to 11 of this act. Any money in the School District Income Tax Fund and the Tax Equity and Educational Opportunities Fund available for investment shall be invested by the state investment

officer pursuant to section 72-1237 to 72-1276.

Sec. 13. On or before July 1 of each year the department shall determine the amounts to be distributed to each district pursuant to section 4 of this act and sections 6 to 11 of this act and shall certify such amounts to the Director of Administrative Services. Such amounts shall be distributed in ten as nearly equal as possible payments on the last business day of each month beginning in September of each year and ending in June of the following year pursuant to warrants drawn against the School District Income Tax Fund and the Tax Equity and Educational Opportunities Fund.

Sec. 14. Beginning with budgets adopted for school year 1990-91, no district shall increase its general fund budget of operating expenditures more than the applicable allowable growth percentage. The Legislature shall annually establish an allowable growth range which shall be expressed as a basic allowable growth rate plus a specified number of percentage points. The Legislature shall set the basic allowable growth rate based on projections of available state revenue and the cost-of-living and cost-of-education from nationally accepted cost indexes which shall be provided by the Nebraska Economic Forecasting Advisory Board, the Legislative Fiscal Office, the Department of

Revenue, and the State Department of Education.

Sec. 15. Beginning with the budget adopted for school year 1990-91, each district shall submit a duplicate copy of its budget statement to the State Department of Education. The Auditor of Public Accounts shall make necessary changes in the budget documents for districts to effectuate the budget limitations imposed pursuant to sections 14 to 21 of this act. The budget statement shall be designed to clearly segregate general fund operating expenditures from other expenditures.

Sec. 16. For school year 1990-91, the basic allowable growth rate shall be four percent. The allowable growth range shall be from four percent to six and one-half percent.

Sec. 17. The department shall, within fifteen working days of the adjournment sine die of the regular session of the Legislature, determine an applicable allowable growth percentage carried out at least eight decimal places for each district as follows:

(1) For each district the State Department of Education shall determine a target budget level by multiplying the average daily membership for the most recently available complete data year of each district in grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through

twelve by the tiered cost per pupil as determined in section 5 of this act for each grade grouping. The sum of such products shall be each district's target budget level;

(2) The department shall establish a target budget level range of general fund operating expenditure levels for each district which shall begin at fifty percent less than the target budget level and end at the target budget level. The beginning point of the range shall be assigned a number equal to the maximum allowable growth rate established in section 16 of this act, and the end point of the range shall be assigned a number equal to the basic allowable growth rate as prescribed in section 16 of this act such that the lower end of the general fund operating expenditure range shall be assigned the maximum allowable growth rate and the higher end of such range shall be assigned the basic allowable growth rate; and

(3) Each district's actual general fund operating expenditures shall be compared to its target budget level along the range described in subsection (2) of this section to arrive at an applicable allowable growth rate as follows: If the district's actual general fund operating expenditures fall below the lower end of the range, the allowable growth rate

shall be the maximum growth rate identified in section 16 of this act. If the district's actual general fund operating expenditures are greater than the higher end of the range, the district's allowable growth rate shall be the basic growth rate identified in section 16 of this act. If the district's actual gene general fund operating expenditures fall between the lower end and the higher end of the range, the department shall use a linear transition calculation between the end points of the range to arrive at the applicable allowable growth rate for the district.

Sec. 18. Beginning with the budget adopted for the 1990-91 school year, no district shall adopt a budget, which includes contingency funds, depreciation funds, and necessary cash reserves, exceeding the applicable allowable reserve percentages of total general fund budget operating expenditures as specified in the following schedule.

<u>Average daily membership of district</u>	<u>Allowable reserve percentage</u>
<u>0 – 471</u>	<u>50</u>
<u>471.01 - 3,044</u>	<u>40</u>
<u>3,044.01 - 10,000</u>	<u>30</u>
<u>10,000.01 and over</u>	<u>25</u>

Within fifteen working days following adjournment sine die of the regular session of the Legislature, the department shall determine each district's applicable allowable reserve percentage.

Each district with combined necessary cash reserves, depreciation funds, and contingency funds less than the applicable allowable reserve percentage specified in this section may, notwithstanding the district's applicable allowable growth percentage, increase its necessary cash reserves an amount which will increase its combined cash reserves, depreciation reserves, and contingency fund by two percent over the amount budgeted for such purposes for the preceding school year, except that a district shall not increase such necessary cash reserves when such increase will result in total necessary cash reserves, depreciation funds, and contingency funds which exceed the applicable allowable reserve percentage.

Sec. 19. Districts may exceed their applicable allowable growth rates by a specific dollar amount in the situations described in this section.

(1) A district can demonstrate to the state board that a new program is required by state or federal law or an existing program mandated by state or federal law has been expanded as a result of changes in such

state or federal law.

(2) The district projects an increase in the number of formula students in the district over the current school year. Districts may project increases in the number of formula students on forms prescribed by the department. The state board shall approve, deny, or modify any projected increases greater than those listed in the following schedule.

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

The department shall compute the district's estimated allowable budget per pupil using the budgeted general fund operating expenditures found on the budget statement for the current school year multiplied by the district's applicable allowable growth rate. The resulting allowable budget per pupil shall be multiplied by the projected formula students to arrive at the estimated budget needs for the ensuing year. The department shall allow the district to increase its budget of expenditures for the ensuing year by the

amount necessary to fund the estimated budget needs of the district as computed pursuant to this subdivision. Within fifteen working days following adjournment sine die of the next regular session of the Legislature, the department shall make needed revisions in the applicable allowable growth rate of districts which have been allowed additional growth pursuant to this subdivision to reflect the actual formula students of such district.

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

Sec. 20. (1) A district may exceed by an additional one percent the applicable allowable growth percentage prescribed in section 17 of this act upon an affirmative vote of least seventy-five percent of the

board. Such vote shall be taken at a public meeting of the board following a special public hearing called for the purpose of receiving testimony on such proposed increase. The board shall give at least seven calendar notice of such public hearing and shall publish such notice at least once in a newspaper of general circulation in the district.

(2) A district may exceed the allowable growth percentage prescribed in section 17 of this act by an amount approved by an amount approved by a majority of registered voters voting on the issue at a special election called for such purpose upon the recommendation of the board or upon the receipt of the county clerk or election commissioner of a petition requesting an election signed by five percent of the registered voters of tile district. The recommendation of the board or the petition of the voters shall include the amount by which the board would increase its budget of expenditures for the ensuing school year over and above the applicable allowable growth rate. The county clerk or election commissioner shall call for a special election on the issue within fifteen days of the receipt of such board recommendation or voter petitions. The election shall be held pursuant to the provisions of Chapter 32 governing special elections, and all costs shall be paid

by the district.

Sec. 21. Any district may choose not to increase its budget of expenditures by the full amount of its applicable allowable growth rate. In such cases, the State Department of Education shall calculate the amount of unused budget authority which shall be carried forward to future budget years so a district may increase its budget of expenditures in future years by the amount of such total unused budget authority notwithstanding the district's applicable allowable growth rate for the specific budget year.

Sec. 22. The department shall provide data to the Governor to enable him or her 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 state income tax revenue received to insure that twenty percent of all state income tax receipts are dedicated to the support of districts throughout the state; and

(3) Establish and implement a basic allowable growth rate and an allowable growth range for district

budgets for the ensuing school year.

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

Sec. 23. There is hereby created the School Finance Review Committee which shall be composed of representatives of the State Department of Education, the Department of Revenue, the Legislative Council, and each class of school district, an expert in school finance, and a member of the general public. The committee members shall be appointed by the Governor. Committee members shall serve staggered three-year terms as the Governor shall designate, and committee members may be reappointed for one additional term. The committee shall monitor the operation of the school finance plan and suggest needed revisions in the plan. In particular, the committee shall review the implementation and operation of the average daily membership tiers, budget growth limitations, and expenditures of school districts pursuant to the plan.

The committee shall annually make a report to the Governor, the Legislature, and state board on the progress of the plan in effectuating property tax relief, broadening the tax base for the support of the

public school system, equalization of the tax burden for the support of the public school system, equalization of educational opportunities for students, and the effects of budget limitations on district spending patterns.

Sec. 24. (1) Financial assistance for each school year shall be based upon data found in applicable reports for the most recently available complete data year. The annual financial reports shall be submitted to the Commissioner of Education by county superintendents for Class I school districts on or before the first day of October of each year and shall be submitted to the Commissioner by Class II, III, IV, V, and VI districts on or before the first day of November of each year. When any Class I district's annual financial report has not been received by the commissioner by the first day of October, any state assistance granted pursuant to the Education Support Act shall be based on the amount granted for the previous fiscal year and shall be reduced by ten percent of that amount, and when any such report has not been received by the first day of November, the district shall forfeit all assistance pursuant to such act for that year. When any Class II, III, IV, V, or VI district fails to submit its report to the commissioner by the first day of November, any state assistance granted pursuant to such

act shall be based on the amount granted for the previous fiscal year and shall be reduced by ten percent of that amount, and when any such district fails to submit its report by the fifteenth day of November, it shall forfeit all assistance pursuant to such act for that year.

(2) A district which receives federal funds in excess of twenty-five percent of its budget of general fund operating expenditures may apply for early payment of state financial assistance 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, within five days after such notification, draw a warrant for the lump-sum amount

from appropriated funds and forward such warrant to the district. As used in 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. 25. That section 72-1237.01, Revised Statutes Supplement, 1989, be amended to read as follows:

72-1237.01. As used in the Nebraska State Funds Investment Act, this act shall mean and refer to sections 1-111, 2-115, 2-1503.01, 2-1547, 2-1808, 2-2317, 3-126, 8-1120, 24-704, 35-601, 37-206, 37-428, 39-1323.01, 39-1390, 44-116, 44-707.03, 45-127, 45-603, 48-617, 48-620, 48-621, 54-112, 54-147, 54-150, 54-1173, 55-131, 57-919, 60-1409, 66-421, 68-301, 68-612, 70-1020, 71-1,147.02, 71-1,210, 71-222.02, 71-1336, 71-2016, 71-2201, 72-202, 72-1005, 72-1237 to 72-1260, 79-1247.07, ~~79-1332~~, 79-1345, 79-1501 to 79-1503.01, 79-1545, 79-1556, 79-1557, 79-2107, 80-111, 80-301, 80-401, 81-528, 81-815.30, 81-845, 81-8,107, 81-1117, 81-1120.22, 81-1278, 81-2019, 81-2022, 82-108.02, 83-150, 83-169, 83-210.01, 84-1301, 84-1305, 84-1308, 84-1309, 85-106, 85-113, 85-122, 85-123.01,

85-168, 85-170, 85-192, 85-320, 85-402, and 85-606.01 and section 12 of this act.

Sec. 26. That section 77-678, Revised Statutes Supplement, 1988, be amended to read as follows:

77-678. If any of the lawsuits pending as of April 14, 1988, challenging the taxation of railroad and car company personal property are resolved or settled so that such taxation is retained in whole or in part, then state aid to any taxing subdivision which has received from the state any funds to reimburse the subdivision for the loss of taxes from such property shall be reduced for the first fiscal year following resolution of the lawsuit. The reduction shall be in an amount equal to that certified by the Tax Commissioner to the State Treasurer as being the amount received by the subdivision as reimbursement for losses of taxes which the resolution or settlement of the lawsuit later upheld. The State Treasurer is hereby directed to so reduce from the amount appropriated for state aid for that fiscal year the aid to those subdivisions. For purposes of this section, state aid shall mean appropriations and distributions made pursuant to sections 77-27,136 to 77-27,137.02 and 79-2651 and the ~~School Foundation and Equalization Tax~~ Equity and

Educational Opportunities Support Act.

Sec. 27. That section 77-2701.01, Revised Statutes Supplement, 1988, be amended to read as follows:

77-2701.01. Pursuant co section 77-2715.01, for all taxable years beginning or deemed to begin on or after January 1, 1990, under the Internal Revenue Code of 1986, as amended, the rate of the income tax levied pursuant to section 77-2715 shall be three and ~~fifteen hundredths~~ seventy hundredths percent.

Sec. 28. That section 77-2701.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2701.02. Pursuant to section 77-2715.01, commencing July 1, 1990, the rate of the sales tax levied pursuant to section 77-2703 shall be ~~four~~ five percent.

Sec. 29. That section 79-451, Revised Statutes Supplement, 1989, be amended to read as follows:

79-451. The secretary shall:

(1) On before July 20 in all classes of school districts, deliver to the county superintendent, to be filed in his or her office, a report under oath showing the number of children belonging to the school district

between the ages of five and twenty-one years according to the census taken as provided in section 79-458. Such report shall identify the number of boys and the number of girls in each of the respective age categories. Each Class I school district which is part of a Class VI school district offering instruction (a) in grades kindergarten through six shall report those children who are five through eleven years old and (b) in grades kindergarten through eight shall report those children who are five through thirteen years old. Each Class VI school district offering instruction (i) in grades seven through twelve shall report those children who are twelve through eighteen years old and (ii) grades nine through twelve those children who are fourteen through eighteen years old. Each Class I school district which is not a part of a Class VI school district shall report those children who are five through twenty-one years old. Any school district board or board of education of any such district neglecting to take and make return of the enumeration shall be liable to the school district for all school money which such district may lose by such neglect;

(2) On or before July 15 in all school districts, deliver to the county superintendent, to be filed in his or her office, a report under oath

described as an end-of-the-school-year annual statistical summary showing (a) the number of children attending school during the year under five years of age and also the number over twenty-one years of age, (b) the length of time the school has been taught during the year by a qualified teacher, (c) the length of time taught by each substitute teacher and the wages paid to each, and (d) such other information as the Commissioner of Education directs; ~~and~~

(3) On or before October 1 in Class I school districts, submit to the county superintendent, to be filed in his or her office, and on or before November 1 in Class II, III, IV, V, and VI school districts, submit to the county superintendent and to the Commissioner of Education, to be filed in their offices, a report under oath described as the annual financial report showing (a) the amount of money received from all sources during the year and the amount of money expended by the school district during the year, (b) the rate of tax levied for all school purposes, (c) the amount of bonded indebtedness, (d) such other information as shall be necessary to fulfill the requirements of sections 79-4,102, ~~79-1331, 79-1333, 79-1338,~~ and 79-3304 and sections 3 to 21 of this act, and (e) such other information as the Commissioner of Education directs;

and

(4) On or before October 15 of each year, deliver to the county superintendent and to the State Department of Education the fall school district membership report. When any school district fails to submit its fall school district membership report by November 1, any state assistance granted pursuant to the Tax Equity and Educational Support Act shall be based on the amount granted for the previous fiscal year and shall be reduced by ten percent of that amount, and when such district fails to submit its fall school district membership report by November 15, it shall forfeit all assistance pursuant to such act for that year.

Sec. 30. That section 79-490, Reissue Revised Statutes of Nebraska, 1943, 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 therein, 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 all elementary or junior high school in his or her own Class V district and lives more than four miles from the public schoolhouse therein, 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 tile 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) to (4) of this section, but a fee may be charged to the parent or guardian of the student for such service. ~~Where the patrons of a Class VI school district have voted to operate and provide free bus transportation for the pupils of the district, such district shall be eligible for payment for transportation as provided for in the School Foundation and Equalization Act.~~ 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 pupil shall be exempt from school attendance on account of distance from the public schoolhouse.

Sec. 31. That section 79-4,102, Revised Statutes Supplement, 1989, be amended to read as follows:

79-4,102. (1) The county superintendent of each county in which a Class VI school is not maintained shall, within thirty days after the annual meeting, certify to the county board of supervisors or commissioners the number of qualified pupils whose parents or guardians have applied to the county

superintendent for nonresident high school tuition privileges or special education requirements and a list of school districts and servicing agencies for handicapped pupils which have been approved by the State Board of Education as schools or service agencies qualified to grant nonresident public high school education or special education programs to nonresident pupils under sections 79-494 to 79-4,105 for nonhandicapped pupils and under sections 79-3315 and 79-3336 for handicapped high-school-age pupils.

(2) The high school tuition rate for nonresident pupils shall be determined annually by the finance division of the State Department of Education on a uniform taxation basis for the support of the high school program of the receiving district. Based on data provided to the State Department of Education pursuant to the requirements of ~~sections~~ section 79-451 and section 24 of this act; ~~79-1331, and 79-1333.02~~, data identifying the residence of registered nonresident students provided by the county superintendents, and such other data necessary to complete the calculations required by this section, the high school tuition charge shall be determined as follows:

(a) The total current expense of the receiving district as shown under the secondary column on the most

recent annual financial report on file with the State Department of Education, for operations supporting the program in grades nine through twelve only, and when necessary, adjustments shall be made to reflect such expenses for grades nine through twelve based on the weighted values per grade level, ~~established in section 79-1334~~, shall be determined. The weighted values per grade level are as follows:

(i) The rate per kindergarten pupil shall be five-tenths times the rate established for a pupil in grades one through six, including full-day kindergarten defined in section 3 of this act;

(ii) The rate per pupil in grades seven and eight shall be one and two-tenths times the rate established for a pupil in grades one through six, including full-day kindergarten defined in section 3 of this act;

(iii) The rate per pupil in grades nine through twelve shall be one and four-tenths times the rate established for a pupil in grades one through six, including full-day kindergarten defined in section 3 of this act;

(iv) The rate per pupil in grades one through six, including full-day kindergarten defined in section 3 of this act, shall be one;

(b) A combined valuation tax base shall be established, from data on file with the county assessors and the Department of Revenue, based on the sum of the total current valuation of the receiving district, and a proportionate share of the current valuation of all existing Class I school districts not a part of any Class I a VI school district in each county where nonresident students reside who have registered to attend the receiving district for the immediately preceding five-year period. The receiving district's proportionate share of such Class I school district valuation shall be determined by multiplying the total current valuation of the existing Class I school districts not a part of any Class VI school district in each county a ratio equal to the total number of nonresident students from each such county who have registered to attend the receiving district for the immediately preceding five-year period compared to the total number of nonresident students who have registered in each such county for the immediately preceding five-year period;

(c) The receiving district's proportionate share of Class I valuation, determined in subdivision (b) of this subsection, shall be divided by the combined valuation tax base, determined in subdivision (b) of

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

(d) The total current charge for nonresident high school students, determined in subdivision (c) of this subsection, shall be adjusted to reflect increasing or decreasing costs. The total current charge for nonresident students shall be multiplied by the annual cost-of-education index to be established by the State Department of Education. Such index shall be based on

the average of the annual increases and decreases in the total disbursements in support of the operation of the public schools during the immediately preceding five-year period for which such information is available. The cost-of-education index shall be computed annually pursuant to guidelines established in the rules and regulations adopted and promulgated by the State Board of Education;

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

(f) On July 15, 1988, and each year thereafter, the State Department of Education shall certify the total high school tuition charge to the receiving district. The superintendent of the receiving district shall certify the nonresident high school tuition charge for the 1988-89 school year and each school year thereafter to the county superintendent for transmittal to the county treasurer and each receiving district on or before July 31 of each year.

(3) Any taxpayer may appeal from the action of the county board of equalization concerning nonresident

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

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

sustain if the court decides that the injunction was wrongfully granted.

Sec. 32. That section 79-1369, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1369. The State Department of Education shall withhold any aid payments provided under section 79-4,160, ~~79-1334~~, or 79-3332 or section 13 of this act to school districts which, after final determination, received funds in excess of the appropriate allocation for the previous year. Aid payments which are withheld shall be no greater than the amount of the overpayment. The State Department of Education shall maintain an accurate account and a record of the reasons for such overpayments and the manner in which adjustments were made.

Sec. 33. That section 79-12,145, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-12,145. The financial assistance granted under the Nebraska Mathematics and Science Teacher Tuition Assistance Act shall be funded one hundred percent by funds appropriated ~~from the School Foundation and Equalization Fund to the State Department of Education for the purposes of such act~~ by the

Legislature. One hundred thousand dollars plus the costs of administration of such act shall be appropriated per fiscal year for such purposes.

Sec. 34. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 35. That original sections 77-2701.02, 79-490, 79-1369, and 79-12,145, Reissue Revised Statutes of Nebraska, 1943, sections 77-678 and 77-2701.01, Revised Statutes Supplement, 1988, and sections 72-1237.01, 79-451, and 79-4,102, Revised Statutes Supplement, 1989, and also sections 79-1332, 79-1332.01, 79-1333.01, 79-1334, 79-1336 to 79-1344.01, and 79-1368, Reissue Revised Statutes of Nebraska, 1943, sections 79-1335 and 79-1344.03, Revised Statutes Supplement, 1988, and sections 79-1330, 79-1333, 79-1333.02, and 79-1344.02, Revised Statutes Supplement, 1989, are repealed.

Sec. 36. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.