

LEGISLATIVE BILL 1059

Passed over the Governor's veto April 9, 1990.

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; Ball, 7; Bartnett, 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; Dierks, 40

AN ACT relating to school financing; to amend sections 77-2701.02, 79-201.09, 79-470, 79-490, 79-12,145, 79-1369, and 79-2317, Reissue Revised Statutes of Nebraska, 1943, sections 77-678 and 77-2701.01, Revised Statutes Supplement, 1988, and sections 72-1237.01, 77-2715.02, 79-451, and 79-4,102, Revised Statutes Supplement, 1989; to adopt the Tax Equity and Educational Opportunities Support Act; to define terms; to limit property tax increases for certain political subdivisions as prescribed; to provide for an election; to provide a termination date; to increase the income tax rate; to increase the sales tax rate; to change a provision relating to income tax rate schedules; to provide for the contents of a report; to eliminate the School Foundation and Equalization Act; to eliminate certain funds; to eliminate the School Financing Review Commission; to harmonize provisions; to provide operative dates; to provide severability; and to repeal the original sections, and also sections 79-1332, 79-1332.01, 79-1333.01, 79-1334, 79-1336 to 79-1340, 79-1342 to 79-1344.01, and 79-1368, Reissue Revised Statutes of Nebraska, 1943, sections 79-1335, 79-1344.03, 79-1380, and 79-1381, Revised Statutes Supplement, 1988, and sections 79-1330, 79-1331, 79-1333, 79-1333.02, 79-1344.02, 79-1378, 79-1379, 79-1382, and 79-1383, Revised Statutes

Supplement, 1989.

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 Legislature 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 the property tax for 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 of state funding for forty-five percent of the aggregate 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 the property tax for the support of the public school system through the establishment of limits on the growth of general fund budgets of districts.

(3) The Legislature further finds and declares that all funds to be distributed pursuant to section 13 of this act shall be used specifically for the purpose of reducing property taxes in the district to which they are distributed.

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

(1) Adjusted valuation shall mean the assessed valuation of taxable property of each district in the state adjusted pursuant to the adjustment factors described in section 9 of this act except that for purposes of determining the local effort rate yield pursuant to section 8 of this act adjusted valuation shall not include the value of any property which a court by a final judgment from which no appeal is taken has declared to be nontaxable or exempt from taxation;

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

(3) Average daily membership tiers shall mean groupings of 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 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) Department shall mean the State Department of Education;

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

(9) Ensuing school year shall mean the school

year following the current school year;

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

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

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

(13) General fund budget of expenditures shall mean the total budgeted expenditures for general fund purposes as certified in the budget statement adopted pursuant to the Nebraska Budget Act except that for purposes of the limitation imposed in section 14 of this act the general fund budget of expenditures shall not include any special grant funds received by a district subject to the approval of the department;

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

(15) 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;

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

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

(18) 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 valuation data are available;

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

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

(21) 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

(22) Tuitioned resident students shall mean resident students of the district whose tuition is paid by the district to some other 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 to provide support for the distribution of aid to districts as determined in subsection (2) through (4) of this section and sections 6 to 13 of this act.

(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 liability of resident individuals for each Class I, Class II, Class III, Class IV, and Class V district in the state in which ten or more resident individual income tax returns were filed and (b) twenty percent of the income tax liability 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.

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

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

(ii) For each Class I district which is not part of a Class VI district, 61.3793 percent of the certified income tax liability 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 liability 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 liability shall be allocated to such Class I district, and the remainder shall be allocated to the Class VI district.

(4) The remainder of the amount dedicated pursuant to subsection (1) of this section which includes income tax receipts from all other entities and individual income tax liability which cannot be reasonably identified as payments from residents of specific districts shall be determined by the Tax Commissioner for the second preceding calendar year. The Legislature shall annually appropriate an amount equal to the total income tax liability allowable to districts based on the certification of the Tax Commissioner provided pursuant to subsection (2) of this section. Based on income tax projections provided by the Nebraska Economic Forecasting Advisory Board, the Legislative Fiscal Analyst, and the Department of Revenue the Legislature shall annually appropriate an amount approximating the remainder of such dedicated income tax receipts for the ensuing 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 regular session of the Legislature the State Department of Education 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 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 for 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 grade 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 on the following schedule.

<u>Tier</u>	<u>Tier midpoint</u>	<u>Average daily membership range</u>
1	50.50	.01 - 101.00
2	143.00	101.01 - 185.00
3	280.00	185.01 - 375.00
4	687.50	375.01 - 1,000.00
5	1,450.00	1,000.01 - 1,900.00
6	8,450.00	1,900.01 - 15,000.00
7	Median average daily membership of tier	15,000.01 and over

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 for such grades for all districts in the tier and dividing by the total average daily membership for such grades 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>
1	25.00	.01 - 50.00
2	62.50	50.01 - 75.00
3	87.50	75.01 - 100.00
4	125.00	100.01 - 150.00
5	200.00	150.01 - 250.00
6	375.00	250.01 - 500.00
7	750.00	500.01 - 1,000.00
8	5,500.00	1,000.01 - 10,000.00
9	Median average daily membership of tier	10,000.01 and over

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 such grades for all districts in the tier and dividing such sum by the total average daily membership for such grades 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 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; and

(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 memberships 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 grade, 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 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; and

(c) For districts with 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 memberships 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 fund operating expenditures per student for grades nine through twelve for all districts included in subsection (4) of this section.

(10) In districts where more than seventy-five percent of the students enrolled reside on Indian land as defined under regulations of the United States Department of Education in effect on the operative date

of this section promulgated pursuant to Public Law 81-874, the tiered cost per student for each grade level as calculated pursuant to subsections (5) through (8) of this section, shall be increased by a factor of twenty-five percent.

Sec. 6. (1) Except as provided in subsections (2) and (3) of this section, each district shall receive state aid in the amount that the total formula need of each such district as determined pursuant to sections 5 and 7 of this act exceeds 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.

(2) A district shall not receive state aid for each of the school years 1990-91, 1991-92, and 1992-93 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 state aid in an amount which 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 8 of this act. The calculation shall be based on valuation state aid and levy data from the current school year.

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 Support 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 so that the valuation of property for each district, for purposes of determining state aid pursuant to the Tax Equity and Educational Opportunities Support Act, shall reflect as nearly as possible actual value as required by law and the Constitution of Nebraska. Establishment of the adjustment factors shall be based on the best available assessment practices.

Sec. 10. District formula shall include that portion of income tax liability 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 department for the most recently available complete data year except that receipts from the Community Improvements Cash Fund and any receipts acquired pursuant to the Low-Level Radioactive Waste Disposal Act shall not be included. Other actual receipts shall include:

- (1) Public power district sales tax revenue;
- (2) Fines and license fees;
- (3) Nonresident high school tuition receipts;

- (4) Tuition receipts from individuals, other districts, or any other source except those derived from adult education;
- (5) Transportation receipts;
- (6) Interest on investments;
- (7) Other miscellaneous local receipts not including receipts from private foundations individuals, associations, or charitable organizations;
- (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;
- (17) All other noncategorical federal receipts; and
- (18) All receipts pursuant to Chapter 79, article 34.

Sec 12. There are hereby created 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 be administered by the state board. The School District Income Tax Fund shall receive resident individual income tax appropriation, made by the Legislature 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 by the Legislature to fund sections 6 to 11 of this act. Any money in such funds 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 as possible equal 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. Such certified amounts shall be shown as budgeted nonproperty tax receipts and deducted prior to calculating the property tax request in the district's general fund budget statement as provided to the Auditor of Public Accounts and the department pursuant to section 15 of this act.

Sec. 14. Beginning with budgets adopted for school year 1990-91 no district shall increase its general fund budget of expenditures more than the applicable allowable growth percentage. The Legislature shall annually establish an allowable growth range which shall be expressed as basic allowable growth rates plus a specified number of percentage points. The Legislature shall set the basic allowable growth rates 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 Analyst, 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 department. The department may verify any data used to meet the requirements of the Tax Equity and Educational Opportunities Support Act. 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 expenditures for special education from other general fund expenditures.

Sec. 16. Beginning with school year 1990-91 and each school year thereafter, the basic allowable growth rate for general fund expenditures other than expenditures for special education shall be four percent and the allowable growth range shall be from four percent to six and one-half percent. The basic allowable growth rate for budgeted general fund expenditures for special education shall be the average of each district's growth in actual expenditures for special education for the most recently available two-year period.

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 department 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 student 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 twenty 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 range shall be assigned the maximum allowable growth rate and the higher end of the 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 subdivision (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 applicable 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 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 of expenditures as specified in the following schedule.

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

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 by an amount which will increase its combined cash reserves depreciation funds and contingency funds by two percent of its total general fund budget of expenditures except that (1) 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 and (2) a district may increase such necessary cash reserves in excess of such two percent limitation due to projected increases in federal funds.

Sec. 19. A district may exceed its applicable allowable growth rate by a specific dollar amount in the situations described in this section.

(1) A district can demonstrate to the satisfaction of 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. For purposes of this subdivision a final order of a court from which no appeal is taken which requires reimbursement by a district of property taxes to a taxpayer shall be considered a new program required by state or federal law.

(2) The district projects an increase in formula students in the district over the current school year. Districts may project increases in 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</u>	<u>Projected increase</u>
<u>membership of</u>	<u>of formula student</u>

<u>district</u>	<u>by percentage</u>
0 - 50	10
50.01 - 250	5
250.01 - 1,000	3
1,000.01 and over	1

The department shall compute the district's estimated allowable budget per pupil using the budgeted general fund 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 general fund budget of expenditures for the ensuing school 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 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.

(4) A district demonstrates to the satisfaction of the state board that additional special education students will enroll in the district for the ensuing school year and will result in an increase in budgeted general fund expenditures for special education. The department shall determine the district's allowable growth rate for special education expenditures based on projected additional special education costs to the district.

(5) For the ensuing school year a district is bound by the terms of a long-term collective bargaining contract negotiated prior to the operative date of this section and during a preceding school year to raise

employee salaries by a percentage greater than such district's applicable allowable growth rate. The department shall compute the amount by which the increase in employee salaries exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund budget of expenditures by such amount.

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 at 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 days' 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 applicable allowable growth percentage prescribed in section 17 of this act 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 by the county clerk or election commissioner of a petition requesting an election signed by five percent of the registered voters of the district. The recommendation of the board or the petition of the voters shall include the amount by which the board would increase its general fund budget of expenditures for the ensuing school year over and above the 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 petition. 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. A district may choose not to increase its general fund budget of expenditures by the full amount of its applicable allowable growth rate. In such cases, the department shall calculate the amount of unused budget authority which shall be carried forward to future budget years so a district may increase its general fund budget of expenditures in future years by the amount of such total unused budget authority in addition to the district's applicable allowable growth rate for the specific budget year.

Sec. 22. The department shall annually 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 income tax revenue received to insure that twenty percent of all 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 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 district, an expert in school finance, and a member of the general public. Except for the representative of the Legislative Council, who shall be selected by the Executive Board of the Legislative Council, and the representative of the State Department of Education, who shall be appointed by the State Board of Education, 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 provisions of the Tax Equity and Educational Opportunities Support Act and suggest needed revisions in the act. In particular, the committee shall review the implementation and operation of the average daily membership tiers budget growth limitations, the need for a continuing hold-harmless provision for state aid, and expenditures of districts pursuant to the act. The committee shall study and make specific recommendations for harmonizing the provisions of the act with the provisions of LB 259, Ninety-first Legislature, Second Session, 1990, and the provisions of Chapter 79, article 34.

The committee shall annually make a report to the Governor, Legislature, and State Board of Education on the progress of the act 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) State assistance 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 shall be submitted to the Commissioner of Education by county superintendents for Class I 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 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 state 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 state assistance pursuant to such act for that year.

(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 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. 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. 25. For purposes of sections 25 to 28 of this act:

(1) Adopted budget statement shall have the definition found in section 13-503;

(2) Base year shall mean fiscal year 1989-90;

(3) Fiscal year shall have the definition found in section 13-503;

(4) Governing body shall have the definition found in section 13-503, except that governing body shall not include a school board or board of education of a school district;

(5) Growth shall mean any property tax revenue received as the result of new construction, additions to existing buildings, any improvements to real property which increase the value of such property, and any personal property not listed for taxation in the previous year but shall not include any increased property tax revenue received due to a change in valuation of a class or subclass of property or to revaluations of individual properties; and

(6) Property taxes shall mean all revenue received from the levy of taxes on real and personal property including receipts from reimbursements under sections 77-3523 and 77-4205, but shall not include property taxes collected for retirement of bonded indebtedness or for projects and practices in accordance with section 2-3229 and necessary works incident to such projects and practices or, for all fiscal years after fiscal year 1990-91, revenue received as a result of growth.

Sec. 26. Except as provided in sections 27 and 28 of this act, no governing body shall adopt a budget statement pursuant to section 13-506 or pursuant to the charter or ordinance of a city with a home rule charter in which the anticipated receipts from property taxes for any fiscal year beginning with fiscal year 1990-91, exceed the receipts from property taxes for the base year compounded annually at the rate of four percent for each fiscal year.

For political subdivisions that consolidate after the operative date of this section, the percentage increase shall be computed based on the combined

receipts from property taxes of each subdivision in the fiscal year immediately preceding consolidation.

Sec. 27. A governing body may increase property taxes by one percent more than the increase permitted by section 26 of this act 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. The governing body shall give at least seven calendar days' notice of such public hearing and shall publish such notice at least once in a newspaper of general circulation in the political subdivision.

Sec. 28. (1) If a majority of the members of the governing body determines that an increase in property taxes greater than the increases permitted by sections 26 and 27 of this act is required for the coming fiscal year, the governing body shall call a special election for the purpose of placing the question of such increase before the voters. The increase shall be adopted if approved by a majority of those voting on the question. Voting at such special election shall be by those persons who are authorized to vote for members of the governing body.

(2) Notice of the election held pursuant to subsection (1) of this section shall state the date on which the election is to be held and the hours the polls will be open. The notice shall be published in a newspaper that is published in or of general circulation in the political subdivision at least five days before the election. If no newspaper is published in or of general circulation in the political subdivision, notice shall be posted at least five days before the special election in each of three public places in the political subdivision.

(3) The governing body shall submit the question to the voters in the following form:

The (name of political subdivision) proposes to request a (number) percent increase in the total property taxes levied on its behalf. Such increase is greater than the increases permitted by sections 26 and 27 of this act.

A vote FOR the proposal will allow the (name of political subdivision) to increase the total property taxes levied by (number) percent.

A vote AGAINST the proposal will limit the (name of political subdivision) to the increases permitted by sections 26 and 27 of this act.

Sec. 29. Sections 25 to 28 of this act shall terminate on July 1, 1992.

Sec. 30. 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, 81-912, 81-1117, 81-1120.22, 81-1278, 81-2019, 81-2022, 82-108.02, 83-150, 83-169, 83-21001, 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, 85-403, and 85-606.01 and section 12 of this act.

Sec. 31. 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. 32. That section 77-2701.01, Revised Statutes Supplement, 1988, be amended to read as follows:

77-2701.01. Pursuant to 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 forty-three-hundredths percent. Pursuant to section 77-2715.01, for all taxable years beginning or deemed to begin on or after January 1, 1991, 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. 33. 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, or on the operative date of this section, whichever is later, the rate of the sales tax levied pursuant to section 77-2703 shall be ~~four~~ five percent.

Sec. 34. That section 77-2715.02, Revised Statutes Supplement, 1989, be amended to read as follows:

77-2715.02. (1) Whenever the primary rate is changed by the Legislature under section 77-2715.01, the Tax Commissioner shall update the rate schedules required in subsection (2) of this section to reflect the new primary rate and shall publish such updated schedules.

(2) The following rate schedules are hereby established for the Nebraska individual income tax and shall be in the following form:

(a) The income amounts for columns A, B, and E shall be the same as for the federal rate schedules in effect for tax year 1987;

(b) The amount in column C shall be the total amount of the tax imposed on income less than the amount in column A;

(c) The amount in column D shall be the rate on the income in excess of the amount in column E;

(d) The primary rate set by Legislature shall be multiplied by the following factors to compute the tax rates for column D. The factors for the brackets, from lowest to highest bracket, shall be .64, .98, 1.52, 1.87, and 1.87;

(e) The amounts for column C shall be rounded to the nearest dollar, and the amounts in column D shall be rounded to ~~tenths of one percent, except for the primary rate which shall be expressed in hundredths of one percent;~~ and

(f) One rate schedule shall be established for each federal filing status.

(3) The tax rate schedules shall use the format set forth in this subsection.

A	B	C	D	E
Taxable income	but not	pay	plus	of the
over	over			amount over

(4) The tax rate applied to other federal taxes included in the computation of the Nebraska individual income tax shall be seven times the primary rate.

(5) The Tax Commissioner shall prepare, from the rate schedules, tax tables which can be used by a majority of the taxpayers to determine their Nebraska tax liability. The design of the tax tables shall be determined by the Tax Commissioner. The size of the tax table brackets may change as the level of income changes. The difference in tax between two tax table brackets shall not exceed fifteen dollars. The Tax Commissioner may build the personal exemptions and standard deduction amounts into the tax tables.

(6) The Tax Commissioner may require by rule and regulation that all taxpayers shall use the tax tables if their income is less than the maximum income included in the tax tables.

Sec. 35. That section 79-201.09, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-201.09. The State Board of Education shall adopt rules and regulations necessary for the implementation of sections 79-201.01 to 79-201.09. Such rules and regulations shall provide for the computation and distribution of funds under ~~Chapter 79, article 13, the Tax Equity and Educational Opportunities Support Act~~ so that a school district which has converted to year-round operation will receive the same amount from each of the various funds as it would have received if it had not so converted.

Sec. 36. That section 79-451, Revised Statutes Supplement, 1989, be amended to read as follows:

79-451. The secretary shall:

(1) On or 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, which report shall include the number of children from birth through twenty years of age enrolled in the district on the last Friday in September of a given school year. The report shall enumerate (a) resident students by grade level and nonresident students and option students as defined in section 79-3402 by grade level and classification including, but not limited to nonresident high school option high school wards of the court or contract (b) eligible children in gifted and deprived programs as approved and verified by the state (c) children eligible to be transported by bus according to section 79-490, and (d) total assessed valuation for the current fiscal year. 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 Opportunities 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 state assistance pursuant to such act for that year.

Sec. 37. That section 79-470, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-470. No school district shall receive any portion of state funds pursuant to ~~Chapter 79, article 13, the Tax Equity and Educational Opportunities Support Act~~ unless school ~~shall have~~ has been actually taught therein by a legally certificated teacher for the length of time required by law or unless the pupils residing therein have attended school in another district for the length of time required by law, except that, PROVIDED, in case of epidemic sickness or severe storm conditions prevailing to such an extent that the school board in any district ~~shall deem~~ deems it advisable to close any or all schools within the district, ~~or~~ if on account of the destruction of the schoolhouse it ~~shall be~~ is impossible to continue the school, or at the discretion of the State Board of Education, such closing of the school shall not prevent it from receiving its proper share of state funds. Such sickness, storm conditions, or destruction of the schoolhouse shall be sworn to by the secretary of the ~~district~~ school board and the oath filed with the county superintendent within ten days after the annual school meeting or election.

Sec. 38. 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 an 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 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) 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. 39. 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~~ department 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~~ department, 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 shall be 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; and

(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 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 by 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~~ education department 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. 40. 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. 41. 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, ~~79-1333~~, 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~~ department shall maintain an accurate account and a record of the reasons for such overpayments and the manner in which adjustments were made.

Sec. 42. That section 79-2317, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2317. The portion of school funds allocated, under the ~~provisions of Chapter 79 article 13, Tax Equity and Educational Opportunities Support Act~~ to any district which is a member of a federation shall be apportioned by the county superintendent between such district and the federation in the same proportions as the number of pupils such district has in actual attendance in all grades through six is to the number of pupils such district has in actual attendance in grades seven to twelve in facilities of the federation.

Sec. 43. Section 9 of this act shall become operative on January 1, 1992. The other sections of this act shall become operative on their effective date.

Sec. 44. 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. 45. That original sections 77-2701.02, 79-201.09, 79-470, 79-490, 79-12,145, 79-1369, and 79-2317, Reissue Revised Statutes of Nebraska, 1943, sections 77-678 and 77-2701.01, Revised Statutes Supplement, 1988, and sections 72-1237.01, 77-2715.02, 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 79-1340, 79-1342 to 79-1344.01, and 79-1368, Reissue Revised Statutes of Nebraska, 1943,

sections 79-1335, 79-1344.03, 79-1380, and 79-1381, Revised Statutes Supplement, 1988, and sections 79-1330, 79-1331, 79-1333, 79-1333.02, 79-1344.02, 79-1378, 79-1379, 79-1382, and 79-1383, Revised Statutes Supplement, 1989, are repealed.