

LEGISLATIVE BILL 511

Approved by the Governor June 10, 1991

Introduced by Lamb, 43; Dierks, 40; Hefner, 19; Wickersham, 49; Elmer, 38; Warner, 25; Cudaback, 36

AN ACT relating to education; to amend sections 43-2007, 77-3437, 77-3438, 77-3441, 79-436, 79-445, 79-446.01 to 79-448, 79-497, 79-498, 79-506 to 79-506.04, 79-548.01, 79-1247.07, 79-1254.02, 79-1914, 79-2212, 79-3304, and 79-3336, Reissue Revised Statutes of Nebraska, 1943, sections 10-716.01, 23-3306, 79-101.01, 79-101.02, 79-201.09, 79-402, 79-402.03, 79-402.04, 79-402.13 to 79-402.20, 79-426.02, 79-426.19, 79-426.28, 79-437.03, 79-438.08, 79-438.12, 79-449.01, 79-451, 79-458, 79-494, 79-4,102 to 79-4,104, 79-4,105.01, 79-4,158.01, 79-4,159, 79-4,222, 79-4,224, 79-701, 79-1103, 79-1247.05, 79-1303, 79-1304, 79-1369, 79-2203, 79-3415, 79-3703, 79-3803 79-3804, 79-3806 to 79-3811, 79-3813, 79-3815 to 79-3820, and 79-3822 to 79-3824, Revised Statutes Supplement, 1990, Laws 1988, LB 940, section 19, and Laws 1988, LB 940, section 18, as amended by Laws 1990, LB 259, section 34; to change, add, and eliminate duties of the Commissioner of Education, State Board of Education, State Department of Education ion, county superintendents, county treasurers, and secretaries of school boards; to require proof of identity and age of certain children; to define and redefine terms; to change, add, and eliminate provisions relating to budget limitations and statements, affiliation reorganization, and depopulation of school districts, nonresident high school tuition, reports, the effect of a census, acquisition of facilities by Class II school districts, contract renewal, certain error proceedings, withholding payments to school districts, reimbursement of certain special education and enrollment option program costs, and the Tax Equity and Educational Opportunities Support Act; to provide for appropriations; to eliminate provisions relating to career

certification levels for teachers, an entry-year assistance program, and certification for administrators; to provide for substitute teaching certificates or permits and for waiver of a fee; to eliminate a prohibition on payment of state apportionment of certain funds; to provide for membership and withdrawal from educational service units for certain Class I districts to eliminate provisions relating to transportation of nonresident students, satellite programs for acoustically handicapped children, and funding for school district affiliation; to eliminate the Nebraska Mathematics and Science Teacher Tuition Assistance Act; to harmonize provisions; to provide severability; to repeal the original sections, and also sections 79-493, 79-4,160, 79-1247.15, 79-12,142 to 79-12,144, 79-12,146 to 79-12,152, and 79-1912, Reissue Revised Statutes of Nebraska, 1943, and sections 79-438.09 to 79-438.11, 79-4,223, and 79-12,145, Revised Statutes Supplement, 1990; and to declare an emergency.

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

Section 1. That section 10-716.01, Revised Statutes Supplement, 1990, be amended to read as follows:

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

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

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

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

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

(5) The pilot projects shall continue for three calendar years, and by July 1, ~~1993~~ 1994, the department shall conduct an overall evaluation of the success or failure of the pilot projects and component" thereof. A report evaluating the pilot projects shall 1 be made to the State Board of Education and the Legislature by November 30, ~~1993~~ 1994.

Sec. 71. That section 79-3803, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3803. 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 factor. described in section 79-3809, except that for purpose. of determining the local effort rate yield pursuant to section 79-3808, 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) Allocated income tax funds shall mean the amount of assistance paid to a district pursuant to section 79-3804;

(3) Average daily membership shall mean the average daily membership for grades kindergarten through twelve as provided in each district's annual financial report and annual statistical summary and, for the calculation of state aid to be paid in school year 1993-94 and each school year thereafter, shall include the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;

~~(3)~~ (4) 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)~~ (5) Board shall mean the school board or board of education of each district;

~~(5)~~ (6) Categorical federal funds shall mean federal funds limited to a specific purpose by federal law, including. - ~~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)~~ (7) Current school year shall mean the current school fiscal year;

~~(7)~~ (8) Department shall mean the State Department of Education;

~~(8)~~ (9) District shall mean any Class I, II, III, IV, V, or VI district; and, for purposes of sections 79-3801 to 79-3813, the nonresident high school tuition fund of each county;

~~(9)~~ (10) Ensuing school year shall mean the school year following the current school year;

(11) Equalization aid shall mean the amount of assistance paid to a district pursuant to sections 79-3806 to 79-3813;

~~(10)~~ (12) Fiscal year shall mean the state fiscal year which is the period from July I to the following June 30;

~~(11)~~ (13) Formula students shall mean the sum of average daily membership and tuitioned resident students;

~~(12)~~ (14) Full-day kindergarten shall mean kindergarten offered by a district for at least one thousand thirty-two instructional hours;

~~(13)~~ (15) 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 79-3814, the general fund budget of expenditures shall not include any special grant funds, exclusive of local matching funds, received by a district subject to the approval of the department;

~~(14)~~ (16) General fund expenditures shall mean all expenditures from the general fund;

~~(15)~~ (17) 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)~~ (18) 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)~~ (19) 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)~~ (20) 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)~~ (21) State aid shall mean the amount of assistance paid to a district pursuant to sections 79-3804 and 79-3806 to 79-3813;

~~(20)~~ (22) State board shall mean the State Board of Education;

~~(21)~~ (23) 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)~~ (24) Tuitioned resident students shall mean resident students in grades kindergarten through twelve of the district whose tuition is paid by the district to some other district or education agency.

Sec. 72. That section 79-3804, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3804. (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 state aid to districts as determined in subsections (2) through (4) of this section and sections 79-3806 to 79-3813.

(2) Not later than ~~January 1~~ November 15 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~~ II, III, IV, or 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~~ II, III, IV, and 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~~ allocated income tax ~~liability~~ funds 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) of this section shall receive the following allocations of certified income tax liability:

(i) For each Class II, ~~Class III, Class IV, and Class~~ III, IV, or V district, the allocated income tax ~~liability~~ funds 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 any portion of the Class I district belongs and to any high school district or districts with which any portion of the Class I district has affiliated. When the Class I district is a joint district or has partially affiliated with one or more high school districts, such remainder shall be allocated to the nonresident high school tuition fund of each county in which the Class I district has property and to the affiliated high school district or districts based on each county's and each affiliated high school district'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~~ allocable 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 79-3806 to 79-3813. ~~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. 73. That section 79-3806, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3806. (1) Except as provided in subsections (2) through (6) and (3) of this section, each district shall receive ~~state~~ equalization aid in the amount that the total formula need of each such district, as determined pursuant to subsection (4) of this section and sections 79-3805 and 79-3807, exceeds its total formula resources as determined pursuant to subsection (4) of this section and sections 79-3808 to 79-3811. ~~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~~ equalization aid in an amount ~~which such~~ that total state aid received would result in such district having a general fund tax levy of less than sixty percent of the local effort rate as computed pursuant to section 79-3808. The calculation shall be based on valuation, state aid, and levy data from the current school year and, for the calculation of state aid in school year 1992-93 and each school year thereafter, shall also take into consideration the amounts of nonresident high school tuition certified by the department pursuant to section 79-4.102 for the current school year and for the school year in which such state aid is to be paid.

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

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

(b) For the high school district and each

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

(c) Each district's total formula need, total formula resources, and difference calculated pursuant to subdivision (b) of this subsection shall be added to arrive at system formula need, system formula resources, and system total difference;

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

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

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

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

Sec. 74. That section 79-3807, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3807. Utilizing (1) Except as provided in subsection (2) of this section, utilizing each district's tiered cost per student as determined in section 79-3805, total formula need for each district

shall be computed as follows. ~~Formula~~ by first multiplying the number of 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.

(2) For calculation of state aid to be paid in school year 1993-94 and each school year thereafter, total formula need for the nonresident high school tuition fund of each county shall equal the total nonresident high school tuition charge for the count for each such school year as certified by the department pursuant to section 79-4,102.

Sec. 75. That section 79-3808, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3808. ~~(1) 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 computed as prescribed in this section.~~

~~(2) 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 79-3811. 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.~~

District	Grades for which legally responsible	Percentage of local effort rate
Class I	Kindergarten through six	46.8776
Class I	kindergarten through six	44.8276
Class I	kindergarten through eight	61.3793
Class VI	seven through twelve	55.1724
Class VI	nine through twelve	38.6207

County non-
resident
high school
tuition funds

nine through twelve 38.6207

(3) For Class I, II, III, IV, V, and VI districts and, except as provided in subsection (5) of this section, for the nonresident high school tuition fund of each county, the local effort rate yield shall be determined by multiplying each district's total adjusted valuation from the most recently available complete data year by the local effort rate.

(4) For the calculation of state aid to be paid in school years 1992-93, 1993-94, and 1994-95, in addition to the local effort rate yield calculated pursuant to subsection (3) of this section, district formula resources for each Class II, III, IV, V, and VI district shall include 38.6207 percent of the local effort rate multiplied by the sum of: (a) The assessed valuation from the current school year of Class I districts or portions thereof that in the current school year are not part of a Class VI district and were not affiliated but will be affiliated or merged with such Class II, III, IV, V, or VI district for the school year in which the calculated state aid is to be paid; and (b) the assessed valuation from the most recently available complete data year of Class I districts or portions thereof that in the most recently available complete data year were not part of a Class VI district and were not affiliated but were affiliated or merged with such Class II, III, IV, V, or VI district for the current school year.

(5) For the calculation of state aid to be paid in school year 1993-94 and each school year thereafter, local effort rate yield for the nonresident high school tuition fund of each county shall be determined by multiplying 38.6207 percent of the local effort rate by the assessed valuation from Class I districts or portions thereof in such county which have not affiliated with any high school district and which are not part of a Class VI district for the school year in which the aid is to be paid.

Sec. 76. That section 79-3809, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3809. 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, by county, 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. 77. That section 79-3810, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3810. District formula resources shall include ~~that portion of allocated~~ income tax ~~liability allocated to~~ funds determined for each such district pursuant to section 79-3804.

Sec. 78. That section 79-3811, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3811. 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, except that for the calculation of state aid to be paid in school years 1991-92, 1992-93, 1993-94, and 1994-95, other actual receipts shall include the district's total nonresident high school tuition charge for each such school year as certified by the department pursuant to section 79-4,102;
- (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) Amounts provided by the state on behalf of the district as reimbursement for repayment of personal property taxes by centrally assessed pipeline companies pursuant to section 77-3617;
- (15) Other miscellaneous state receipts;
- ~~(15)~~ (16) Impact aid receipts entitlements for the school fiscal year which have actually been received by the district 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. 79. That section 79-3813, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3813. On or before July 1 of each year the department shall determine the amounts to be distributed to each district pursuant to sections 79-3804 and 79-3806 to 79-3811 and shall certify such amounts to the Director of Administrative Services, ~~the Auditor of Public Accounts, and each district.~~ 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 state aid amounts shall be shown as budgeted non-property-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 79-3815.

Sec. 80. That section 79-3815, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3815. (1) 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 require each district to submit to it a duplicate copy of such portions of the district's budget statement as the Commissioner of Education directs. 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 79-3814 to 79-3821.

(2) If any school district fails to submit to the department or the auditor the budget documents required pursuant to subsection (1) of this section by the date established in section 13-508 or fails to make any corrections of errors in the documents pursuant to section 13-504, the commissioner, upon notification from the auditor or upon his or her own knowledge that the required budget documents and any required corrections of errors from any school district have not been properly filed in accordance with the Nebraska Budget Act and after notice to the district and an opportunity to be heard, shall direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act and all other funds distributed by the department be withheld until such time as the required budget documents or corrections of errors are received by the department. In addition, the commissioner shall notify the county superintendent to direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county superintendent of receipt of the required red budget documents or corrections of errors. The budget statement shall be designed to clearly segregate expenditures for special education from other general fund expenditures.

Sec. 81. That section 79-3816, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3816. 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 but shall not be less than the district's allowable growth rate computed pursuant to subdivision (3) of section 79-3817 nor more than two times the statewide average growth in actual expenditures for special education for the same two-year period.

Sec. 82. That section 79-3817, Revised

Statutes Supplement, 1990, be amended to read as follows:

~~79-3817. The department shall, within fifteen working days of the adjournment mine die of the regular session of the Legislature, determine~~ On or before July 1 of each year, the department shall determine and certify to each district 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 79-3805 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 79-3816 and the end point of the range shall be assigned number equal to the basic allowable growth rate as prescribed in section 79-3816 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 79-3816. 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 79-3816. 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. 83. That section 79-3818, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3818. 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 general fund cash reserves, exceeding the applicable allowable reserve percentages of total general fund budget of expenditures as specified in the following schedule.

Average daily membership of district	Allowable reserve percentage
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~~ On or before July 1 of each year, the department shall determine and certify each district's applicable allowable reserve percentage.

Each district with combined necessary general fund 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 general fund cash reserves by an amount which will increase its combined necessary general fund 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 general fund cash reserves when such increase will result in total necessary general fund cash reserves, depreciation funds, and contingency funds which exceed the applicable allowable reserve percentage and (2) a district may increase such necessary general fund cash reserves in excess of such two percent limitation due to projected increases in federal funds.

Sec. 84. That section 79-3819, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3819. 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~~ demonstrates 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 but shall not be included as part of the general fund budget of expenditures for purposes of section 79-3814.

(2) The district projects an increase in formula students in the district over the current school year. Districts ~~may~~ shall 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.

Average daily membership of district	Projected increase of formula student by percentage
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 divided by the number of formula students in the current school year and 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 nine die at the next regular session of the Legislature~~ On or before July 1 of each year, 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 and shall certify such revisions to each 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~~ 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 amount by~~ which a district may exceed its applicable 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 July 10, 1990, 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. 85. That section 79-3820, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3820. (1) A district may exceed by an additional one percent the applicable allowable growth percentage prescribed in section 79-3817 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 79-3817 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 at least five percent of the registered voters of the district. The recommendation of the board or the petition of the voters shall include the amount and percentage by which the board would increase its general fund budget of expenditures for the ensuing school year over and above the ~~applicable allowable growth rate~~ current year's general fund budget of expenditures. 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. 86. That section 79-3822, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3822. The department shall annually, on or before December 1, 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. 87. That section 79-3823, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3823. 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 Laws 1990, LB 259, and the provisions of Chapter 79, article 34.

The committee shall annually, on or before March 1, 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. 88. That section 79-3824, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3824. (1) State ~~assistance~~ aid payable pursuant to the Tax Equity and Educational Opportunities Support Act for each school year shall be based upon data found in applicable reports for the most recently available complete data year. The annual financial reports 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 pursuant to subdivision (3) of section 79-451. If any Class I district's annual financial report has not been received by the commissioner by the first day of October and if any Class II, III, IV, V, or VI school district fails to submit its report to the commissioner by the first day of November, the commissioner, after notice to the district and an opportunity to be heard, shall direct that any state aid granted Pursuant to the Tax Equity

and Educational Opportunities Support Act and all other funds distributed by the department be withheld until such time as the report is received by the department. In addition, the commissioner shall notify the county superintendent to direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county superintendent of receipt of such report. The county treasurer shall withhold such money. ~~, 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 say such report has met been received by the first day of November, the district shall forfeit all state assistance pursuant to such not 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, say state assistance %ranted pursuant to such act shall be based am the amount granted for the previous fiscal year end shall be reduced by ten percent of that amount, and when say such district fails to submit its report by the fifteenth day of November, it shall forfeit all state assistance pursuant to such set 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~~ aid paid pursuant to the Tax Equity and Educational Opportunities Support Act when such federal funds are not received in a timely manner. Such application may be made at any time by a district suffering such financial hardship and may be for any amount up to fifty percent of the remaining amount to which the district is entitled during the current fiscal year. The state board may grant the entire amount applied for or any portion of such amount if, after a hearing, the state board finds that a financial hardship exists in the district. The state board shall notify the Director of Administrative Services of the amount of funds to be paid in lump sum and the reduced amount of the monthly payments. The Director of Administrative Services shall, ~~within give days after such notification~~ at the time of the next state aid payment made pursuant to section 79-3813, draw a warrant for the lump-sum amount from appropriated funds and forward such warrant to the district. For purposes of this subsection, financial hardship shall mean a situation in which income to a district is exceeded by liabilities to such a degree that if early payment is not received it will

be necessary for the district to discontinue vital services or functions.

Sec. 89. That Laws 1988, LB 940, section 18, as amended by Laws 1990, LB 259, section 34, be amended to read as follows:

Sec. 18. Section 19 of this act as amended by section 90, Legislative Bill 511, Ninety-second Legislature, First Session, 1991, shall become operative on July 1, ~~1992~~ 1993. The other sections of this act shall become operative on their effective date.

Sec. 90. That Laws 1988, LB 940, section 19 be amended to read as follows:

Sec. 19. That sections ~~79-436, 79-437, 79-495, 79-496, to 79-499, 79-4,101, and 79-4,105, Reissue Revised Statutes of Nebraska, 1943, and sections 79-4,102 to 79-4,104, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 7 to 9, respectively, Legislative Bill 940, Ninetieth Legislature, Second Session, 1988, sections 79-436, 79-497, and 79-498, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 25, 38, and 39, respectively, Legislative Bill 511, Ninety-second Legislature, First Session, 1991, and sections 79-4,102 to 79-4,104, Revised Statutes Supplement, 1990, as amended by sections 40 to 42, respectively, Legislative Bill 511, Ninety-second Legislature, First Session 1991,~~ are repealed.

Sec. 91. There is hereby appropriated (1) \$200 from the General Fund for FY1991-92 and (2) \$200 from the General Fund for FY1992-93 to the State Department of Education, for program 440, to aid in carrying out the provisions of Legislative Bill 511, Ninety-second Legislature, First Session, 1991.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 92. There is hereby appropriated (1) \$15,656 from the General Fund for FY1991-92 and (2) \$27,000 from the General Fund for FY1992-93 to the State Department of Education, for program 25, to aid in carrying out the provisions of Legislative Bill 511, Ninety-second Legislature, First Session, 1991.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 93. There is hereby appropriated (1) \$14,950 from the General Fund for FY1991-92 and (2) \$17,160 from the General Fund for FY1992-93 to the State Department of Education, for program 25, as state aid

pursuant to section 79-447, to aid in carrying out the provisions of Legislative Bill 511, Ninety-second Legislature, First Session, 1991, which shall only be used for such purpose.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 94. There is hereby appropriated (1) \$247,000 from the General Fund for FY1991-92 and (2) \$255,000 from the General Fund for FY1992-93 to the Department of Social Services, for program 347, to aid in carrying out the provisions of Legislative Bill 511, Ninety-second Legislature, First Session, 1991.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 95. 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. 96. That original sections 43-2007, 77-3437, 77-3438, 77-3441, 79-436, 79-445, 79-446.01 to 79-448, 79-497, 79-498, 79-506 to 79-506.04, 79-548.01, 79-1247.07, 79-1254.02, 79-1914, 79-2212, 79-3304, and 79-3336, Reissue Revised Statutes of Nebraska, 1943, sections 10-716.01, 23-3306, 79-101-01, 79-101.02, 79-201.09, 79-402, 79-402.03, 79-402.04, 79-402.13 to 79-402.20, 79-426.02, 79-426.19, 79-426.28, 79-437.03, 79-438.08, 79-438.12, 79-449.01, 79-451, 79-458, 79-494, 79-4,102 to 79-4,104, 79-4,105.01, 79-4,158.01, 79-4 159, 79-4,222, 79-4,224, 79-701, 79-1103, 79-1247.05, 79-1303, 79-1304, 79-1369, 79-2203, 79-3415, 79-3703, 79-3803, 79-3804, 79-3806 to 79-3811, 79-3813, 79-3815 to 79-3820, and 79-3822 to 79-3824, Revised Statutes Supplement, 1990, Laws 1988, LB 940, section 19, and Laws 1988, LB 940, section 18, as amended by Laws 1990, LB 259, section 34, and also sections 79-493, 79-4,160, 79-1247.15, 79-12,142 to 79-12,144, 79-12,146 to 79-12,152, and 79-1912, Reissue Revised Statutes of Nebraska, 1943, and sections 79-438.09 to 79-438.11, 79-4,223, and 79-12,145, Revised Statutes Supplement, 1990, are repealed.

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