

LEGISLATIVE BILL 989

Approved by the Governor April 7, 1998

Introduced by Coordsen, 32; Hartnett, 45; Hilgert, 7; Landis, 46; C. Peterson, 35; Raikes, 25; Schellpeper, 18; Wickersham, 49; Will, 8; Stuhr, 24; at the request of the Governor

AN ACT relating to revenue and taxation; to amend sections 13-518 to 13-521, 79-1023, 78-1025, 79-1028, and 79-1030, Reissue Revised Statutes of Nebraska, and sections 77-27, 139.03, 78-1007.02, 79-1008.01, 79-1026, 79-1029, and 79-1083.03, Revised Statutes Supplement, 1997; to change budget limitation provisions for political subdivisions and school districts as prescribed; to provide a duty for the Auditor of Public Accounts; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 13-518, Reissue Revised Statutes of Nebraska, is amended to read:
13-518. For purposes of sections 13-518 to 13-522:

(1) Allowable growth means (a) for governmental units other than community colleges, the percentage increase in taxable valuation in excess of the base limitation established under section 15 of this act, if any, due to improvements to real property as a result of new construction, additions to existing buildings, any improvements to real property which increase the value of such property, and any increase in valuation due to annexation and any personal property valuation over the prior year and (b) for community colleges, the percentage increase in excess of the base limitation, if any, in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined;

~~(2) Capital improvements means (a) acquisition of real property; or (b) acquisition, construction, or extension of any improvements on real property; or (c) furnishing or equipping of any improvement, except that routine maintenance and the acquisition of any equipment with a useful life of less than five years shall not be considered capital improvements, and (d) acquisition or replacement of other tangible personal property with a useful life of five years or more;~~

~~(2) (3) Governing body has the same meaning as in section 13-503;~~

~~(3) (4) Governmental unit means every political subdivision which has authority to levy a property tax or authority to request levy authority under section 77-3443 except sanitary and improvement districts which have been in existence for five years or less and school districts;~~

~~(4) Population growth means (a) for governmental units other than community colleges, the percentage increase, if any, in inhabitants in the governmental unit between the two most recent consecutive years for which population estimates are available and (b) for community colleges, the percentage increase, if any, in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined. A governmental unit may use federal census numbers from the annual county population estimates from the Bureau of Economic Analysis of the United States Department of Commerce federal census update or recount or numbers calculated using a method similar to the method described in section 77-3,119 for the two most recent available consecutive years for determining population growth. A governmental unit which encompasses part of one or more counties may estimate the prior year and current year population using housing starts, by basing the estimate on a proportionate share of the population of the county, or by using the population growth estimate of those municipalities that are within that portion of the county;~~

~~(5) Qualified sinking fund means a fund or funds maintained separately from the general fund to pay for acquisition or replacement of tangible personal property with a useful life of five years or more which is to be undertaken in the future but is to be paid for in part or in total in advance using periodic payments into the fund. The term includes sinking funds under subdivision (13) of section 35-508 for firefighting and rescue equipment or apparatus;~~

~~(6) Restricted funds means (a) property tax, excluding any amounts required to pay interest and principal on bonded indebtedness and any amounts refunded to taxpayers, (b) payments in lieu of property taxes, (c) local option sales taxes, (d) state aid, and (e) transfers of surpluses from any~~

user fee, permit fee, or regulatory fee if the fee surplus is transferred to fund a service or function not directly related to the fee and the costs of the activity funded from the fee, and (f) any funds excluded from restricted funds for the prior year because they were budgeted for capital improvements but which were not spent and are not expected to be spent for capital improvements; and

~~(6)~~ (7) State aid means:

(a) For all governmental units, state aid paid pursuant to sections 60-305.15 and 77-3523;

(b) For municipalities, state aid to municipalities paid pursuant to sections 18-2605, 39-2501 to 39-2520, 60-3007, and 77-27,136, and 77-27,139.04 and insurance premium tax paid to municipalities;

(c) For counties, state aid to counties paid pursuant to sections 39-2501 to 39-2520, 60-3007, and 77-27,136 and insurance premium tax paid to counties;

(d) For community colleges, state aid to community colleges paid under sections 85-1536 ~~and to 85-1537~~; and

(e) For natural resources districts, state aid to natural resources districts paid pursuant to section 77-27,136.

Sec. 2. Section 13-519, Reissue Revised Statutes of Nebraska, is amended to read:

13-519. (1) For fiscal years beginning on or after July 1, 1996, and before July 1, 1997, no governmental unit shall adopt a budget containing a total of budgeted restricted funds more than the last prior year's total of budgeted restricted funds plus population growth plus two percent expressed in dollars. For cities of the first and second class and villages, restricted funds shall be reduced to take into account the fourteen-month fiscal year for 1995-96. For fiscal years beginning on or after July 1, 1997, and before July 1, 1998, no governmental unit shall adopt a budget containing a total of budgeted restricted funds more than the last prior year's total of budgeted restricted funds plus population growth expressed in dollars. ~~A governmental unit may exceed the budget limit for a fiscal year by up to an additional one percent upon the affirmative vote of at least seventy five percent of the governing body.~~ For all fiscal years beginning on or after July 1, 1998, no governmental unit shall adopt a budget containing a total of budgeted restricted funds more than the last prior years total of budgeted restricted funds plus allowable growth plus the basic allowable growth percentage of the base limitation established under section 15 of this act. For all fiscal years beginning on or after July 1, 1998, and before July 1, 1999, the last prior year's total of restricted funds shall be the last prior year's total of restricted funds not excluding restricted funds budgeted for acquisition or replacement of tangible personal property with a useful life of five years or more in the last prior year or the year before the last prior year, whichever excluded the most, plus restricted funds budgeted to pay for lease-purchase contracts approved on or after July 1, 1997, and before July 1, 1998, to the extent the lease payments are not budgeted restricted funds for fiscal year 1997-98. If a governmental unit transfers the financial responsibility of providing a service financed in whole or in part with restricted funds to another governmental unit or the state, the amount of restricted funds associated with providing the service shall be subtracted from the last prior year's total of budgeted restricted funds for the previous provider and may be added to the last prior year's total of restricted funds for the new provider. For governmental units that ~~have annexed property or~~ have consolidated, the calculations made under this section for ~~the annexing unit or~~ consolidating units shall be made based on the combined total of restricted funds, population, or full-time equivalent students of each governmental unit, ~~or a portion thereof.~~

(2) In addition to the increase allowed in subsection (1) of this section, for fiscal years beginning on or after July 1, 1996, and before July 1, 1999, a governmental unit may increase its budget of restricted funds no more than four percent to create or increase an existing qualified sinking fund or funds upon the affirmative vote of at least seventy-five percent of the governing body. Any unused authority granted in this subsection may not be carried forward under section 13-521.

(3) A governmental unit may exceed the limit provided in subsection (1) of this section for a fiscal year by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the governing body.

(4) A governmental unit may exceed the applicable allowable growth percentage otherwise prescribed in this section by an amount approved by a majority of legal voters voting on the issue at a special election called for such purpose upon the recommendation of the governing body or upon the receipt by the county clerk or election commissioner of a petition requesting an

election signed by at least five percent of the legal voters of the governmental unit. The recommendation of the governing body or the petition of the legal voters shall include the amount and percentage by which the governing body would increase its budgeted restricted funds for the ensuing year over and above the current year's budgeted restricted funds. The county clerk or election commissioner shall call for a special election on the issue within fifteen days after the receipt of such governing body recommendation or legal voter petition. The election shall be held pursuant to the Election Act, and all costs shall be paid by the governing body. The issue may be approved on the same question as a vote to exceed the levy limits provided in section 77-3444.

(5) In lieu of the election procedures in subsection (4) of this section, any governmental unit may exceed the allowable growth percentage otherwise prescribed in this section by an amount approved by a majority of legal voters voting at a meeting of the residents of the governmental unit, called after notice is published in a newspaper of general circulation in the governmental unit at least twenty days prior to the meeting. At least ten percent of the registered voters residing in the governmental unit shall constitute a quorum for purposes of taking action to exceed the allowable growth percentage. If a majority of the registered voters present at the meeting vote in favor of exceeding the allowable growth percentage, a copy of the record of that action shall be forwarded to the Auditor of Public Accounts along with the budget documents. The issue to exceed the allowable growth percentage may be approved at the same meeting as a vote to exceed the limits or final levy allocation provided in section 77-3444.

Sec. 3. Section 13-520, Reissue Revised Statutes of Nebraska, is amended to read:

13-520. ~~The limitation limitations in section 13-519 shall not apply to (1) restricted funds budgeted for capital improvements, (2) restricted funds expended from a qualified sinking fund for acquisition or replacement of tangible personal property with a useful life of five years or more, (3) financed by the proceeds from a bond issue, appropriations from a sinking fund, or any other means~~ (2) restricted funds pledged to retire bonded indebtedness, ~~(3) (4) restricted funds budgeted in support of a service which is becomes the subject of an interlocal cooperation agreement or a modification of an existing agreement whether operated by one of the parties to the agreement or an independent joint entity, for two fiscal years beginning with the first budget adopted after the agreement or modification is signed, (4) (5) restricted funds budgeted to pay for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act, or (5) (6) restricted funds budgeted to pay for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a governmental unit which require or obligate a governmental unit to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of e governmental unit.~~ (4) (5) restricted funds budgeted in support of a service which is becomes the subject of an interlocal cooperation agreement or a modification of an existing agreement whether operated by one of the parties to the agreement or an independent joint entity, for two fiscal years beginning with the first budget adopted after the agreement or modification is signed, (4) (5) restricted funds budgeted to pay for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act, or (5) (6) restricted funds budgeted to pay for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a governmental unit which require or obligate a governmental unit to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of e governmental unit.

Sec. 4. Section 13-521. Reissue Revised Statutes of Nebraska, is amended to read:

13-521. A governmental unit may choose not to increase its total of restricted funds by the full amount allowed by law in a particular year. In such cases, the governmental unit may carry forward to future budget years the amount of unused restricted funds authority. The governmental unit shall calculate its unused restricted funds authority and submit an accounting of such amount with the budget documents for that year. Such unused restricted funds authority may then be used in later years for increases in the total of restricted funds allowed by law. Any unused budget authority existing on ~~April 17, 1996~~ the effective date of this act, by reason of any prior law may be used for increases in restricted funds authority.

Sec. 5. Section 77-27,139.03, Revised Statutes Supplement, 1997, is amended to read:

77-27,139.03. (1) State aid provided to municipalities pursuant to sections 77-27,139.01 to 77-27,139.04 shall be calculated by determining the average property tax levy for operational purposes other than for principal and interest payments on the indebtedness of all incorporated municipalities. The Auditor of Public Accounts shall provide to the Department of Revenue a list of the bond and nonbond tax request amounts from the most recent budgets filed by incorporated municipalities. The information shall be used to calculate the bond and nonbond tax levies for aid purposes under this section. The auditor shall provide the information to the department by February 1 each year.

(2) Each municipality shall receive state aid from the Municipal Equalization Fund equal to (a) the product of the average per capita property tax ~~levy~~ of the appropriate population group multiplied by the current

population of the municipality minus (b) the product of the average property tax levy multiplied by the certified valuation within the incorporated municipality, except that a municipality shall not receive any aid under this section if the calculation results in a negative number.

(3) If a municipal tax levy for operational purposes was less than forty cents per one hundred dollars of valuation in the immediately preceding fiscal year, the state aid provided to such municipality shall be reduced by twenty percent for each one-cent increment the levy was below forty cents.

(4) Aid distributed to a municipality shall not exceed the amount which would have been necessary to reduce the municipal tax levy for operational purposes below thirty-five cents per one hundred dollars of taxable valuation in the immediately preceding fiscal year.

(5) If the amount of money in the Municipal Equalization Fund is less than the total amount of state aid for all municipalities as required by the allocation formula in subsection (2) of this section, the money in the fund shall be allocated on a prorated basis to such municipalities. If the amount of money in the fund is more than the total amount of state aid for municipalities as required by the allocation formula, the excess money in the fund shall be transferred to and distributed from the Municipal Infrastructure Redevelopment Fund.

Sec. 6. Section 79-1007.02, Revised Statutes Supplement, 1997, is amended to read:

79-1007.02. For state aid calculated for school fiscal year 1998-99 and each school fiscal year thereafter:

(l) Using data from the annual financial reports, the annual statistical summary reports, fall membership reports, and the school district census as reported under sections 79-524 and 79-578 for the most recently available complete data year, the department shall divide the local systems into three cost groupings based upon the following criteria:

(a) Local systems that have (i) less than one-half student per square mile in the county in which the high school attendance center is located, based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than fifteen miles between the high school attendance center and the next closest high school attendance center on paved roads will be in the very sparse cost grouping;

(b) Local systems that do not qualify for the very sparse cost grouping but which meet the following criteria will be in the sparse cost grouping:

(i)(A) Less than two students per square mile in the county in which the high school is located, based on the school district census;

(B) Less than one formula student per square mile in the local system; and

(C) More than ten miles between the high school attendance center and the next closest high school attendance center on paved roads;

(ii)(A) Less than one and one-half formula students per square mile in the local system; and

(B) More than fifteen miles between the high school attendance center and the next closest high school attendance center on paved roads; or

(iii) The local system includes ninety-five percent or more of a county; and

(c) Local systems that do not qualify for the very sparse or the sparse cost groupings will be in the standard cost grouping.

(2) The department shall calculate the average formula cost per student in each cost grouping by dividing the total estimated general fund operating expenditures for the cost grouping by the total adjusted formula students for all local systems in the cost grouping. The total estimated general fund operating expenditures for the cost grouping is equal to the total adjusted general fund operating expenditures for all local systems in the cost grouping multiplied by a cost growth factor. The cost growth factor for each cost grouping is equal to the sum of: (a) One; plus (b) the product of two times the ratio of the difference between the formula students attributable to the cost grouping without weighting or adjustment pursuant to section 79-1007.01 and the average daily membership attributable to the cost grouping for the most recently available complete data year divided by the average daily membership attributable to the cost grouping for the most recently available complete data year, except that the ratio shall not be less than zero; plus (c) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year when the aid is to be distributed; plus (d) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately preceding the school fiscal year when the aid is to be distributed; plus (e) one-half of any additional growth rate allowed by special action of school boards for the school fiscal year when the aid is to

be distributed as determined on or before December 1 of the school fiscal year immediately preceding the school fiscal year when aid is to be distributed; plus (f) one-half of any additional growth rate allowed by special action of the school boards for the school fiscal year immediately preceding the school fiscal year when the aid is to be distributed.

(3) Each local system's formula need will be equal to the local system's transportation allowance plus the local system's special education allowance plus the product of the local system's adjusted formula membership multiplied by the average formula cost per student in the local system's cost grouping.

Sec. 7. Section 79-1008.01, Revised Statutes Supplement, 1997, is amended to read:

79-1008.01. For school fiscal year 1998-99 and each school fiscal year thereafter:

(1) Except as provided in section 79-1011 for reorganized districts which become reorganized districts on or before June 30, 2005, and except as provided in subdivision (2) of this section and sections 79-1008.02 to 79-1010, each local system shall receive equalization aid in the amount that the total formula need of each local system, as determined pursuant to sections 79-1007.01, 79-1007.02, and 79-1014, exceeds its total formula resources as determined pursuant to sections 79-1015.01 to 79-1017.01 and 79-1018.01.

(2) Except as provided in section 79-1008.02, a local system shall not receive state aid for school fiscal year 1998-99 and each school fiscal year thereafter which is less than an amount equal to the difference of eighty-five percent of the amount of aid certified in the preceding school fiscal year minus an amount equal to any increase in the adjusted valuation between the adjusted valuation used for the certification of aid in the preceding school fiscal year and the adjusted valuation used for the aid being calculated multiplied by the maximum levy pursuant to subdivision (2)(a) of section 77-3442 without a vote pursuant to section 77-3444.

(3) Except as provided in subsection (2) of this section, no local system may receive equalization aid such that, when total aid is added to a levy of one dollar for state aid to be distributed in school fiscal years 1998-99 and 1999-2000 or of ninety cents for state aid to be distributed in school fiscal year 2000-01 and each school fiscal year thereafter, multiplied by the local system's adjusted valuation divided by one hundred, would result in total local system revenue from state aid plus property tax receipts which exceeds the total of:

(a) State aid plus property tax receipts received by the local system during the preceding school fiscal year multiplied by the total of (i) 1.01 plus (ii) the applicable allowable growth rate for the system calculated pursuant to section 79-1026 as determined on or before December 1 of the school fiscal year immediately preceding the school fiscal year when aid is to be distributed plus (iii) the percentage growth in formula students from the certification of state aid for the immediately preceding school fiscal year to the formula students for the certification of state aid for the current year, except that the percentage growth shall not be less than zero;

(b) Unused budget authority authorized pursuant to section 79-1030; and

(c) The difference between the other actual receipts included in district formula resources for the certification of state aid in the preceding school fiscal year and other actual receipts included in district formula resources for the certification of state aid for the current school fiscal year, except that such difference shall not be less than zero.

For districts that have reorganized, state aid, property tax receipts, and number of formula students shall be attributed based on valuation. The revenue from property tax receipts shall be calculated by multiplying the reported general fund common levy by the assessed valuation subject to the levy divided by one hundred.

(4) The aid that is not distributed through equalization based on subdivision (3) of this section shall be distributed through this subdivision. Local systems that qualify for distribution shall have nine hundred or less formula students and shall have adjusted general fund operating expenditures per formula student less than the average for all local systems with nine hundred or less formula students. The aid shall be distributed proportionally to qualifying districts based on the dollar amount each local system's calculated state aid plus the product of a levy of one dollar and ten cents for school fiscal years 1998-99 and 1999-00 and of one dollar for school fiscal year 2000-01 and each school fiscal year thereafter multiplied by the assessed valuation divided by one hundred is below ninety percent of state aid plus property tax receipts received by the local system during the preceding

school fiscal year. No system shall receive aid pursuant to this subdivision such that the calculated state aid plus the product of a levy of one dollar and ten cents for school fiscal years 1998-99 and 1999-00 and of one dollar for school fiscal year 2000-01 and each school fiscal year thereafter multiplied by the assessed valuation divided by one hundred is ninety percent or more of state aid plus property tax receipts received by the local system during the preceding school fiscal year. Any aid available for distribution pursuant to this subsection that is not distributed pursuant to this subsection shall be distributed as equalization aid.

Sec. 8. Section 79-1023, Reissue Revised Statutes of Nebraska, is amended to read:

79-1023. ~~(1) Except as provided in subsection (2) of this section, no~~ No Class II, III, IV, V, or VI district shall increase its general fund budget of expenditures more than the local system's applicable allowable growth percentage. ~~Except for fiscal years 1996-97 and 1997-98, 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.~~

~~(2) Except for fiscal year 1996-97, notwithstanding any of the provisions of subsection (1) of this section and sections 79-1024 to 79-1030, the general fund budget of expenditures of each district shall not exceed the general fund budget of expenditures adopted for the immediately preceding school fiscal year unless a district, pursuant to the procedures and requirements specified in subsection (1) of section 79-1029, by an affirmative vote of seventy five percent of the school board, votes to exceed such limitation, in which case the budget limitations and all other provisions of subsection (1) of this section and sections 79-1024 to 79-1030 shall apply.~~

Sec. 9. Section 79-1025, Reissue Revised Statutes of Nebraska, is amended to read:

79-1025. ~~(1) For fiscal year 1996-97, the basic allowable growth rate for general fund expenditures other than expenditures for special education shall be two percent plus the growth in students. For fiscal year 1997-98, the basic allowable growth rate for general fund expenditures other than expenditures for special education shall be the growth in students. For purposes of this subsection, the growth in students shall be the percentage increase in the number of students calculated by dividing the fall membership count from the school year immediately preceding the school year for which the budget is being determined multiplied by the average ratio of average daily membership to fall membership for the most recent available data year and the two school years prior to that year by the average daily membership in the school district from the second school year preceding the year for which the budget is being determined and then subtracting one from the ratio. If the calculated growth in students is negative, the growth in students shall be zero for the purposes of this section.~~

~~(2) For all other fiscal years, the~~ The basic allowable growth rate for general fund expenditures other than expenditures for special education shall be ~~three percent~~ the base limitation established under section 15 of this act and the allowable growth range shall be ~~from three percent to five and one half percent~~ the base limitation to two percent above the base limitation. The budget authority for special education shall be the actual anticipated expenditures for special education subject to the approval of the state board. Such budget authority shall be used only for special education expenditures.

Sec. 10. Section 79-1026, Revised Statutes Supplement, 1997, is amended to read:

79-1026. ~~For fiscal years 1996-97 and 1997-98, the allowable growth percentage shall be equal to the allowable growth rate set forth in section 79-1025. On or before July 1 of each year other than 1996 and 1997~~ On or before December 1 of each year, the department shall determine and certify to each Class II, III, IV, V, or VI district an applicable allowable growth percentage carried out at least four decimal places for each district local system as follows:

(1) For ~~school fiscal years before~~ each school fiscal year, ~~1996-97, the department shall determine a target budget level for each district 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 unadjusted tiered cost per student as determined in section 79-1006 for each grade grouping. The sum of such products shall be each district's target budget level. For school year 1998-99 and each school year thereafter, the department shall determine a target budget level for each local system by multiplying the average daily membership for the most recently available complete data year adjusted formula students as calculated pursuant to section 79-1007.01 of each local system in grades kindergarten, one through six, including full day kindergarten, seven and eight, and nine through twelve by the cost grouping cost per student as calculated under section 79-1007.02. for each grade grouping. The sum of such ~~products~~ product and the local system's special education allowance and transportation allowance shall be each local system's target budget level;~~

(2) ~~The department shall establish a target budget level range of general fund operating expenditure levels for each district or, for school fiscal year 1998-99 and each school fiscal year thereafter, for each local system 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 79-1025, and the end point of the range shall be assigned a number equal to the basic allowable growth rate as prescribed in such section 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 or, for school fiscal year 1998-99 and~~ For each school fiscal year, thereafter, each local system'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 or, for school fiscal year 1998-99 and each school fiscal year thereafter, each local system's actual~~ general fund operating expenditures fall below the lower end of the range, such applicable allowable growth rate shall be the maximum growth rate identified in section 79-1025. ~~If the district's or, for school fiscal year 1998-99 and each school fiscal year thereafter, each local system's actual~~ general fund operating expenditures are greater than the higher end of the range, the ~~district's or, for school fiscal year 1998-99 and each school fiscal year thereafter, each~~ local system's allowable growth rate shall be the basic growth rate identified in such section. ~~If the district's or, for school fiscal year 1998-99 and each school fiscal year thereafter, each local system'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~~ interpolation calculation between the end points of the range to arrive at the applicable allowable growth rate for the ~~district or, for school fiscal year 1998-99 and each school fiscal year thereafter, each~~ local system.

Sec. 11. Section 79-1028, Reissue Revised Statutes of Nebraska, is amended to read:

79-1028. (1) ~~For fiscal years 1996-97 and 1997-98, a district~~ A Class II, III, IV, V, or VI school district may exceed ~~its~~ the local system's allowable growth rate for (a) ~~budgeted expenditures for capital improvements as defined in section 13-518 financed by the proceeds from a bond issue, appropriations from a sinking fund, or any other means,~~ (b) ~~expenditures to retire bonded indebtedness,~~ (c) ~~expenditures in support of a service which becomes~~ is the subject of an interlocal cooperation agreement or a modification of an existing agreement whether operated by one of the parties to the agreement or an independent joint entity, ~~(b) for two fiscal years beginning with the first budget adopted after the agreement or modification is signed,~~ (d) ~~expenditures to pay for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act,~~ ~~(e) (c)~~ (c) expenditures to pay for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a school district which require or obligate a school district to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a school district, ~~or (f) (d)~~ (d) expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment, ~~or (e) expenditures to pay for lease-purchase contracts approved on or after July 1, 1997, and before July 1, 1998, to the extent the lease payments are not budgeted expenditures for fiscal year 1997-98.~~

(2) ~~Except for fiscal years 1996-97 and 1997-98, a district may exceed its applicable allowable growth rate by a specific dollar amount if the district 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 state or~~

~~federal law. For purposes of this subsection, a final order of a court, the State Board of Equalization and Assessment, the Tax Commissioner, the Tax Equalization and Review Commission, or the Property Tax Administrator 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 79-1023.~~

~~(3) Except for fiscal years 1996-97 and 1997-98, a A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount if the district projects an increase in formula students in the district over the current school year greater than twenty-five students or greater than those listed in the schedule provided in this subsection, whichever is less. Districts shall project increases in formula students on forms prescribed by the department. The state board shall approve, deny, or modify the projected increases.~~

Average daily membership of district	Projected increase of formula students 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 subsection. On or before July 1, 1998, and on or before December 1, 1998, and each December 1 thereafter, ~~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 subsection to reflect the actual formula students of such district and shall certify such revisions to each district.

~~(4) Except for fiscal years 1996-97 and 1997-98, a (3) A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount if 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 Class II, III, IV, V, or VI district to exceed its the local system's applicable allowable growth percentage by the amount necessary to fund such increased costs. The department shall compute the actual increased costs for the school year and shall, if needed, modify the district's local system's applicable allowable growth rate for the ensuing school year.~~

~~(5) Except for fiscal years 1996-97 and 1997-98, a district may exceed its applicable allowable growth rate by a specific dollar amount if the district demonstrates to the satisfaction of the state board that as a result of an order entered into by the Commission of Industrial Relations pursuant to section 48-818 establishing rates of pay, benefits, and other terms and conditions of employment, the district will exceed its applicable allowable growth rate. The department shall compute the amount by which the increase in employee costs exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund budget of expenditures by such amount.~~

~~(6) Except for fiscal years 1996-97 and 1997-98, a district may exceed its applicable allowable growth rate by a specific dollar amount if the district demonstrates to the satisfaction of the state board that it will exceed its applicable allowable growth rate as a result of a contested, but settled, contract dispute, claim, or breach or uninsured risk or as a result of any final judgment of any court of competent jurisdiction requiring or obligating the district to pay such judgment. The department shall compute the amount by which the increased cost of the settlement or judgment exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund budget of expenditures by such amount.~~

~~(7) Except for fiscal years 1996-97 and 1997-98, a (4) A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount if the district demonstrates to the satisfaction of the state board that it will exceed its applicable allowable growth rate as a~~

result of costs pursuant to the Retirement Incentive Plan authorized in section 79-855 or the Staff Development Assistance authorized in section 79-856. The department shall compute the amount by which the increased cost of such program or programs exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund expenditures by such amount for that fiscal year.

Sec. 12. Section 79-1029, Revised Statutes Supplement, 1997, is amended to read:

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

(2) ~~Except for fiscal years 1996-97 and 1997-98, a~~ A Class II, III, IV, V, or VI district may exceed the applicable allowable growth percentage prescribed in section 79-1026 by an amount approved by a majority of legal 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 legal voters of the district. The recommendation of the board or the petition of the legal voters shall include the amount and percentage by which the board would increase its general fund budget of expenditures for the ensuing school year over and above the current year's general fund budget of expenditures. The county clerk or election commissioner shall call for a special election on the issue within fifteen days after the receipt of such board recommendation or legal voter petition. The election shall be held pursuant to the Election Act, and all costs shall be paid by the district. The issue may be approved on the same question as a vote to exceed the levy limits provided in section 77-3444.

Sec. 13. Section 79-1030, Reissue Revised Statutes of Nebraska, is amended to read:

79-1030. A Class II, III, IV, V, or VI district may choose not to increase its general fund budget of expenditures by the full amount of 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. 14. Section 79-1083.03, Revised Statutes Supplement, 1997, is amended to read:

79-1083.03. Beginning with the 1998-99 school year:

(1) If the primary high school district is a Class VI district, the Class I district's total allowable general fund budget of expenditures minus the special education budget of expenditures shall be determined by the school board of such Class VI district and shall be certified to the Class I district on or before January 1 of each year for the following school year;

(2) If the primary high school district is not a Class VI district, the Class I district's total allowable general fund budget of expenditures minus the special education budget of expenditures shall be determined by the department as follows:

(a) The total allowable general fund budget of expenditures minus the special education budget of expenditures for the Class I district in the year immediately preceding the year for which the budget is prepared shall be divided by the formula students in the Class I district as defined in section 79-1003, and the result shall be increased by the applicable allowable growth rate for the primary high school district local system for the ensuing school year calculated pursuant to section 79-1026 as determined on or before December 1 of the school fiscal year immediately preceding the school fiscal year for which the budget is prepared;

(b) The total allowable general fund budget of expenditures minus the special education budget of expenditures for the primary high school district in the year immediately preceding the year for which the budget is prepared shall be divided by the formula students in the primary high school district as defined in section 79-1003 weighted by the grade weighting factors contained in subdivision (1) of section 79-1007.01, and the result shall be

multiplied by the kindergarten through grade eight formula students as defined in section 79-1003 weighted by the grade weighting factors contained in subdivision (1) of section 79-1007.01 to calculate the total allowable general fund budget of expenditures minus the special education budget of expenditures for kindergarten through grade eight in the primary high school district. The total allowable general fund budget of expenditures minus the special education budget of expenditures for kindergarten through grade eight shall be divided by the kindergarten through grade eight formula students without weighting. The result shall be increased by the applicable allowable growth rate for the primary high school district local system for the ensuing school year calculated pursuant to section 79-1026 as determined on or before December 1 of the school fiscal year immediately preceding the school fiscal year for which the budget is Prepared;

(c) The amounts calculated in subdivisions (2)(a) and (2)(b) of this section shall be summed and the result divided by two to arrive at the total allowable general fund budget of expenditures minus the special education budget of expenditures per pupil for the Class I district; and

(d) The total allowable general fund budget of expenditures minus the special education budget of expenditures per pupil for the Class I district shall be multiplied by the formula students for the Class I district as defined in section 79-1003, as used by the department for certification of the ensuing school year's state aid, and the result shall be the total allowable general fund budget of expenditures minus the special education budget of expenditures for the Class I district for the ensuing school year except as provided in subdivision (3) of this section; and

(3) The school board of the Class I district may, prior to February 1 of each year beginning in 1998, submit a request to exceed the total allowable general fund budget of expenditures minus the special education budget of expenditures to all the school boards of the high school district or districts with which the Class I district is affiliated or of which it is a part. For Class I districts to exceed the total allowable general fund budget of expenditures minus the special education budget of expenditures, the request shall be approved by high school districts, including the primary high school district, such that the portions of the Class I district that are affiliated with or part of the approving high school districts comprise at least two-thirds of the assessed valuation of the Class I district. Such request shall specify the total general fund budget of expenditures for which the Class I district seeks authority. The high school district shall act on the request by March 1 following the receipt of such request.

Sec. 15. Base limitation means the budget limitation rate applicable to school districts and the limitation on growth of restricted funds applicable to other political subdivisions prior to any increases in the rate as a result of special actions taken by a supermajority of any governing board or of any exception allowed by law. The base limitation is two and one-half percent until adjusted. The base limitation may be adjusted annually by the Legislature to reflect changes in the prices of services and products used by school districts and political subdivisions. The Revenue Committee of the Legislature shall on or before January 15 of each year hold a public hearing to receive and consider testimony, evidence, and reports.

Sec. 16. This act becomes operative for all fiscal years beginning on or after July 1, 1998.

Sec. 17. Original sections 13-518 to 13-521, 79-1023, 79-1025, 79-1028, and 79-1030, Reissue Revised Statutes of Nebraska, and sections 77-27, 139.03, 79-1007.02, 79-1008.01, 79-1026, 79-1029, and 79-1083.03, Revised Statutes Supplement, 1997, are repealed.

Sec. 18. Since an emergency exists, this act takes effect when passed and approved according to law.