

LEGISLATIVE BILL 1219

Approved by the Governor April 18, 1998

Introduced by Bohlke, 33; Dierks, 40; Stuhr, 24; Suttle, 10

AN ACT relating to schools; to amend sections 79-851, 79-852, 79-854, 79-855, 79-856, 79-857, 79-858, 79-1098, and 79-10,124, Reissue Revised Statutes of Nebraska, sections 79-850, 79-1001, 79-1003, 79-1010, 79-1083.02, 79-10,122, and 84-612, Revised Statutes Supplement, 1997, and section 3, Legislative Bill 1134, Ninety-fifth Legislature, Second Session, 1998; to provide for unified systems; to change provisions relating to the Retirement Incentive Plan, Staff Development Assistance, reorganization incentives, and tax levies; to provide for temporary mitigation funds; to change provisions relating to elections for construction and equipment purchases; to eliminate provisions relating to legislative intent with respect to appropriations; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 79-850, Revised Statutes Supplement, 1997, is amended to read:

79-850. For purposes of sections 79-850 to 79-852, ~~unless the context otherwise requires, reorganized 79-858;~~

(1) Reorganized school district means: ~~(1)~~ (a) Any expanded or altered school district, organized or altered by any of the means provided by Nebraska law including, but not limited to, the methods provided by the Reorganization of School Districts Act, section 79-407, 79-413, 79-463, or 79-473, or sections 79-415 to 79-417 or 79-452 to 79-455; or ~~(2)~~ Any (b) any school district to be formed in the future if the petition or plan for such reorganized school district has been approved pursuant to any of the methods set forth in subdivision (1)(a) of this section when the effective date of such reorganization is prospective. For purposes of this subdivision, a petition or plan shall be deemed approved when the last legal action has been taken, as prescribed in section 79-413, 79-450, or 79-455, necessary to effect the changes in boundaries as set forth in the petition or plan; and

(2) Unified system means a unified system as defined in section 9 of this act recognized by the State Department of Education pursuant to subsection (3) of such section, which employs certificated staff.

Sec. 2. Section 79-851, Reissue Revised Statutes of Nebraska, is amended to read:

79-851. The unified system or reorganized school district or districts may terminate, in accordance with sections 79-824 to 79-842, the contracts of employment of teachers whose employer's school district was or is to be closed, merged, or otherwise altered as provided for unified systems or reorganized school districts in section 79-850, except that such teachers shall for the purpose of reduction in force be considered teachers of the unified system or reorganized school district or districts and the teachers shall be given full credit for the years of teaching experience they had acquired as well as the same tenure or permanent status rights they had in the school district or districts affected by the unification or reorganization.

Sec. 3. Section 79-852, Reissue Revised Statutes of Nebraska, is amended to read:

79-852. The collective-bargaining agreement of the school district or districts forming the unified system or reorganized school district with the largest number of teacher employees shall continue in full force and effect and govern all teachers in the unified system or reorganized school district until replaced by a successor agreement, and the teachers employed by the unified system or reorganized school district and previously employed by the school districts involved in the formation of the unified system or reorganized school district shall automatically be included in that bargaining unit but no certificated public school employee shall be compelled to join any organization or association. If only one collective-bargaining agreement is in effect in the school districts which are a part of the unification or reorganization, that collective-bargaining agreement shall continue in full force and effect until replaced by a successor agreement and the teachers employed by the other school districts involved in the unification or reorganization shall automatically be included in that bargaining unit. For purposes of the Industrial Relations Act, the unified system shall be deemed

an employer as defined in section 48-801.

Sec. 4. Section 79-854, Reissue Revised Statutes of Nebraska, is amended to read:

79-854. (1) If the unification or reorganization of two or more school districts will involve a reduction in force, all certificated employees from the district or districts involved in the unification or reorganization shall have, except as limited by subsection (2) of this section, the option to: (a) Retire under the Retirement Incentive Plan pursuant to section 79-855; (b) terminate employment and receive Staff Development Assistance pursuant to section 79-856; or (c) remain employed by the district subject to personnel policies and staffing requirements of the unified system or reorganized district or districts. Each certificated employee shall be notified in writing of the proposed unification or reorganization, the number of employees which will be reduced, and the availability of the Retirement Incentive Plan and Staff Development Assistance prior to such unification or reorganization. If the unification or reorganization will involve a reduction in force prior to the effective date of the unification or reorganization, the notification shall be made by March 15 of the school year in effect. If the unification or reorganization will not involve a reduction in force prior to the effective date of the unification or reorganization, otherwise, the notification shall be made at least thirty calendar days prior to the effective date of the unification or reorganization but in no event later than March 15 of the calendar year in which action on the reduction in force will occur. The employee election to retire under the Retirement Incentive Plan or to terminate employment and receive Staff Development Assistance shall be made within fifteen calendar days after receiving the notification, or those options are waived.

(2) For each unification or reorganization, the number of certificated employees which receive either the Retirement Incentive Plan or Staff Development Assistance shall be limited to the number of certificated employees which are reduced due to the unification or reorganization. If the number of employees electing participation in the Retirement Incentive Plan or Staff Development Assistance exceed the number of employees which will be reduced, selection for participation shall be determined by the date and time of receipt of the employee election. Employee elections which are received first shall be selected, and all certificated employees in all districts involved in the unification or reorganization shall be treated equally in determining such selection.

Sec. 5. Section 79-855, Reissue Revised Statutes of Nebraska, is amended to read:

79-855. (1) Except as limited by subsection (2) of section 79-854, all certificated employees from a district involved in a unification or reorganization who are at least fifty-five years of age on the date of unification or reorganization shall be eligible to participate in the Retirement Incentive Plan pursuant to this section if, within fifteen calendar days after receiving notification, the employee signs an agreement to retire effective on or prior to the effective date of the unification or reorganization. To receive a benefit under the Retirement Incentive Plan, a certificated employee must have completed five years of creditable service prior to the effective date of retirement.

(2) A qualified certificated employee who elects retirement under the Retirement Incentive Plan shall receive a benefit in the form of a lump-sum amount, payable in one or two payments. Such payments shall not be included in the determination of final average compensation pursuant to the School Employees Retirement Act. The payments to the certificated employee shall equal seven hundred dollars for each year of service with the district and shall not exceed twenty-four thousand five hundred dollars for each certificated employee receiving benefits under this section.

(3) The Retirement Incentive Plan shall be available to employees only prior to allocation of staff pursuant to section 79-857.

(4) Costs of the Retirement Incentive Plan, prior to the allocation of staff, shall be allocated among the reorganized districts or participating districts in a unification based upon the proportion of valuation each reorganized district receives or each participating district contains. Such costs shall not be included in general fund operating expenditures as defined in section 79-1003, for that fiscal year. Costs associated with agreements beyond the scope of the Retirement Incentive Plan shall be the sole responsibility of the reorganized district or unified system involved in the agreement.

(5) Payments made to employees pursuant to the Retirement Incentive Plan shall be made by the unified system or according to the reorganization plan and, if not specified in the plan, by the reorganized district receiving

the largest valuation.

(6) Participation in an early retirement program, other than the Retirement Incentive Plan, shall not be available to transferring staff for a period of one year after the date of unification or reorganization.

Sec. 6. Section 79-856, Reissue Revised Statutes of Nebraska, is amended to read:

79-856. (1) Except as limited by subsection (2) of section 79-854, all certificated employees from a district involved in a unification or reorganization who, within fifteen calendar days after receiving notification of the availability of Staff Development Assistance pursuant to section 79-854, terminate employment voluntarily, contract to waive any reduction-in-force rights pursuant to sections 79-846 to 79-849, and sign a Staff Development Assistance agreement, shall receive one year of Staff Development Assistance. Staff Development Assistance shall be available to employees only prior to allocation of staff pursuant to section 79-857.

(2) Staff Development Assistance shall not be included in the determination of final average compensation pursuant to the School Employees Retirement Act.

(3) The Staff Development Assistance agreement shall specify that:

(a) A stipend equal to fifty percent of annual salary shall be contingent upon enrollment and attendance at a Nebraska state college or the University of Nebraska; or a stipend equal to twenty-five percent of annual salary shall be provided if not enrolled nor in attendance at a Nebraska state college or the University of Nebraska;

(b) The stipend will cease upon attainment of employment of twenty or more hours per week;

(c) The stipend will be paid in the same manner as contract payments for the most recent contract year;

(d) Tuition for two semesters, if applicable, will be paid directly to the Nebraska state college or the University of Nebraska and shall equal resident tuition charges plus fees of such school and will not include costs of books or other instructional materials; and

(e) All reduction-in-force rights pursuant to sections 79-846 to 79-849, are waived by signing the agreement.

(4) Costs of Staff Development Assistance, prior to the allocation of staff, shall be allocated among the reorganized districts or participating districts in a unification based upon the proportion of valuation each reorganized district receives or each participating district contains. Such costs shall not be included in general fund operating expenditures as defined in section 79-1003, for that fiscal year. Costs associated with agreements beyond the scope of Staff Development Assistance shall be the sole responsibility of the reorganized district involved in the agreement.

(5) Payments made to employees pursuant to Staff Development Assistance shall be made by the unified system or according to the reorganization plan and, if not specified in the plan, by the reorganized district receiving the largest valuation.

Sec. 7. Section 79-857, Reissue Revised Statutes of Nebraska, is amended to read:

79-857. (1) For reorganizations involving consolidation of school districts into one or more reorganized districts, staff not electing retirement pursuant to section 79-855 or Staff Development Assistance pursuant to section 79-856 shall be allocated prior to the effective date of reorganization as follows:

(a) ~~(1)~~ All districts involved may enter into an agreement on the allocation of all certificated employees to one or more of the reorganized districts. No certificated employee shall be allocated to more than one district. Such agreement shall be signed by all the districts involved;

(b) ~~(2)~~ All certificated employees from the district or districts who have not been allocated pursuant to subdivision ~~(1)~~ (1) (a) of this section shall be totaled and allocated among the reorganized districts based upon the proportion of students transferring to the reorganized district;

(c) ~~(3)~~ All certificated employees from the district shall be treated equally in the allocation regardless of seniority. Staff shall not be given the option to choose the reorganized district in which to relocate. Random selection shall be utilized to allocate individual employees among all reorganized districts; and

(d) ~~(4)~~ Once the selection and allocation is completed, employees from the district or districts shall retain years of service from the previous district for purposes of seniority. Within each reorganized district, employees from the receiving district shall not have priority over transferring employees. All reduction-in-force laws and policies shall apply.

(2) For unifications, staff not electing retirement pursuant to

section 79-855 or Staff Development Assistance pursuant to section 79-856 shall be allocated prior to the effective date of the unification in compliance with an agreement signed by all participating districts. Once the selection and allocation is completed, employees shall retain years of service from the participating district for purposes of seniority. All reduction-in-force laws and policies shall apply.

Sec. 8. Section 79-858, Reissue Revised Statutes of Nebraska, is amended to read:

79-858. Any agreements other than the Retirement Incentive Plan pursuant to section 79-855 or Staff Development Assistance pursuant to section 79-856 shall be the sole responsibility of the unified system or reorganized district.

Sec. 9. (1) Unified system means two or more Class II or III school districts participating in an interlocal agreement under the Interlocal Cooperation Act with approval from the State Committee for the Reorganization of School Districts. The interlocal agreement may include Class I districts if the entire valuation is included in the unified system. The interlocal agreement shall provide for a minimum term of three school years. The agreement shall provide that all property tax and state aid resources shall be shared by the unified system and that a board composed of school board members, with at least one school board member from each district, shall determine the general fund levy, within the limitations placed on school districts and multiple-district school systems pursuant to section 77-3442, to be applied in all participating districts and shall determine the distribution of property tax and state aid resources within the unified system. For purposes of section 77-3442, the multiple-district school system shall include all of the Class I, II, and III districts participating in the unified system and the Class I districts or portions thereof affiliated with any of the participating Class II and III districts. The interlocal agreement shall also provide that certificated staff will be employees of the unified system. For any certificated staff employed by the unified system, tenure and seniority as of the effective date of the interlocal agreement shall be transferred to the unified system and tenure and seniority provisions shall continue in the unified system except as provided in sections 79-850 to 79-858. If a district withdraws from the unified system or if the interlocal agreement expires and is not renewed, certificated staff employed by a participating district immediately prior to the unification shall be reemployed by the original district and tenure and seniority as of the effective date of the withdrawal or expiration shall be transferred to the original district. The certificated staff hired by the unified system but not employed by a participating district immediately prior to the unification shall be subject to the reduction-in-force policy of the unified system. The interlocal agreement shall also require participating districts to pay obligations of the unified system pursuant to sections 79-850 to 79-858 on a pro rata basis based on the adjusted valuations if a district withdraws from the unified system or if the interlocal agreement expires and is not renewed. Additional provisions in the interlocal agreement shall be determined by the participating districts and shall encourage cooperation within the unified system.

(2) Application for unification shall be made to the state committee. The application shall contain a copy of the interlocal agreement signed by the president of each participating school board. The state committee shall approve or disapprove applications for unification within thirty days after receipt of the application. If the interlocal agreement complies with subsection (1) of this section and all school boards of the participating districts have approved the interlocal agreement, the state committee shall approve the application. Unification agreements shall be effective on June 1 following approval from the state committee for status as a unified system or on June 1 of the year specified in the interlocal agreement. The board established in the interlocal agreement may begin meeting any time after the application has been approved by the state committee.

(3) Upon granting the application for unification, the State Department of Education shall recognize the unified system as a single Class II or III district for state aid, budgeting, accreditation, enrollment of students, state programs, and reporting. The class of district shall be the same as the majority of participating districts, excluding Class I districts. If there are an equal number of Class II and Class III districts in the unified system, the unified system shall be recognized by the department as a Class III district.

(4) The school districts participating in a unified system shall retain their separate identities for all purposes except those specified in this section, and participation in a unified system shall not be considered a

reorganization.

Sec. 10. A Class I district with more than fifty percent of its valuation affiliated with a single Class II or III district participating in a unified system may reaffiliate so that its entire valuation is affiliated with that Class II or III district. A Class I district which is not entirely within a Class VI system and which does not have more than fifty percent of its valuation affiliated with a Class II or III district may reaffiliate so that its entire valuation is affiliated with a Class II or III district participating in a unified system. The effective date of the reaffiliation shall be the effective date of the Class I district's participation in the unified system. The reaffiliation shall not affect any existing bond obligations.

Sec. 11. A Class I district of which fifty percent or more of the district's valuation is affiliated with a single Class II or III district shall not merge, dissolve, or reorganize unless:

(1) The Class II or III district with which fifty percent or more of the Class I district's valuation is affiliated is also reorganizing in the same reorganization plan, petition, or election and that plan, petition, or election requires approval by either the school board or such legal voters of such Class II or III district;

(2) Fifty percent or more of the Class I district's valuation is being merged with such Class II or III district;

(3) The Class I district has been participating in a unified system for a minimum of seven school fiscal years and the unified system includes at least one Class II or III district reorganizing in the same reorganization plan or petition; or

(4) The school board of the Class II or III district with which fifty percent or more of the Class I district's valuation is affiliated votes to approve the plan or petition.

Sec. 12. The affiliation agreement for a Class I district that is affiliated with a Class II or III district that is participating in a unified system shall continue unmodified unless (1) the Class I district reaffiliates pursuant to section 10 of this act or (2) the Class I district's entire valuation is included in the unified system and the Class I district chooses to participate in the unified system by becoming a party to the interlocal agreement pursuant to section 9 of this act. For the purpose of determining the total allowable general fund budget of expenditures minus the special education budget of expenditures pursuant to section 79-1083.03 for Class I districts that are not participating in the unified system, the data for the unified system shall be deemed to be the data for the high school district if the primary high school district is a participant in the unified system.

Sec. 13. Section 79-1001, Revised Statutes Supplement, 1997, is amended to read:

79-1001. Sections 79-1001 to 79-1033 and section 14 of this act shall be known and may be cited as the Tax Equity and Educational Opportunities Support Act.

Sec. 14. Beginning with school fiscal year 1998-99, if the total levy required for property tax requests for all general fund budgets in a local system exceeds the amount that can be generated by the maximum levy pursuant to subdivision (2)(a) of section 77-3442, the high school district shall be entitled to take the necessary steps to comply with such maximum levy by:

(1) Reducing the property tax request for each district up to the amount by which the district's budgeted general fund cash reserve exceeds fifteen percent of the district's general fund budget of expenditures for the preceding school fiscal year;

(2) If the reductions under subdivision (1) of this section do not reduce the required levy to the maximum levy permitted under subdivision (2)(a) of section 77-3442, reducing the property tax request for each district proportionately based on the amount of the difference between the district's general fund budget of expenditures minus the special education budget of expenditures for the current budget year and a two-year average for the two preceding school fiscal years of the general fund budget of expenditures minus the special education budget of expenditures up to such difference; and

(3) If the reductions under subdivisions (1) and (2) of this section do not reduce the required levy to the maximum levy permitted under subdivision (2)(a) of section 77-3442, reducing the property tax request for each district by an amount proportional to the district's share of the total property tax request for the preceding school fiscal year such that the required local system levy shall be the maximum levy allowed under subdivision (2)(a) of section 77-3442.

Sec. 15. Section 79-1003, Revised Statutes Supplement, 1997, is

amended to read:

79-1003. For purposes of the Tax Equity and Educational Opportunities Support Act:

(1) Adjusted general fund operating expenditures means general fund operating expenditures as calculated pursuant to subdivision (21) of this section minus the transportation allowance and, for purposes of state aid paid in school fiscal year 1998-99 and each school fiscal year thereafter, minus the special education allowance;

(2) Adjusted valuation means the assessed valuation of taxable property of each district in the state, for school fiscal years before school fiscal year 1998-99, and of each local system in the state, for school fiscal year 1998-99 and each school fiscal year thereafter, adjusted pursuant to the adjustment factors described in section 79-1016. For the calculation of state aid to be paid in school year 1995-96, adjusted valuation means the adjusted valuation for the property tax year ending during the school year in which the aid based upon that value is to be paid. For calculation of state aid to be paid in school year 1996-97 and each school year thereafter, adjusted valuation means the adjusted valuation for the property tax year ending during the school year immediately preceding the school year in which the aid based upon that value is to be paid. For purposes of determining the local effort rate yield pursuant to section 79-1015, adjusted valuation does 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;

(3) Allocated income tax funds means the amount of assistance paid to a district pursuant to section 79-1004 or 79-1005 and, for school fiscal year 1998-99 and each school fiscal year thereafter, as adjusted by the minimum levy adjustment pursuant to section 79-1008.02;

(4) Average daily membership means the average daily membership for grades kindergarten through twelve attributable to the district for school fiscal years before school fiscal year 1998-99, and for school fiscal year 1998-99 and each school fiscal year thereafter, attributable to the local system, as provided in each district's annual statistical summary and includes the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;

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

(6) Base fiscal year means (a) for school district reorganizations which occurred during prior to the 1995-96 school fiscal year or the 1996-97 school fiscal year, the first fiscal year in which all data sources reflect the reorganized district as a single district for the calculation of state aid and (b) for school district reorganizations which occur during or after the 1995-96 school fiscal year, the second school fiscal year following the school fiscal year in which the reorganization occurred or (b) for school district reorganizations or unifications which occur during or after the 1997-98 school fiscal year, the first school fiscal year following the school fiscal year in which the reorganization or unification occurred;

(7) Board means the school board or board of education of each school district;

(8) Categorical federal funds means funds limited to a specific purpose by federal law, including, but not 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;

(9) Consolidate means to voluntarily reduce the number of school districts providing education to a grade group and does not include dissolution pursuant to section 79-498;

(10) Current school year means the current school fiscal year;

(11) Department means the State Department of Education;

(12) District means any Class I, II, III, IV, V, or VI school district;

(13) Ensuing school year means the school year following the current school year;

(14) Equalization aid means the amount of assistance paid to a district pursuant to sections 79-1008 to 79-1022;

(15) Fall membership means the total membership in kindergarten through grade twelve attributable to the district for school fiscal years before school fiscal year 1998-99, and for school fiscal year 1998-99 and each school fiscal year thereafter, attributable to the local system, as reported on the fall school district membership reports for the local system pursuant to section 79-528;

(16) Fiscal year means the state fiscal year which is the period from July 1 to the following June 30;

(17) Formula students means (a) for state aid certified pursuant to section 79-1022, the sum of fall membership from the school year immediately preceding the school year in which the aid is to be paid, multiplied by the average ratio of average daily membership to fall membership for the most recently available complete data year and the two school years prior to the most recently available complete data year, and tuitioned students from the school year immediately preceding the school year in which the aid is to be paid and (b) for final calculation of state aid pursuant to section 79-1065, the sum of average daily membership and tuitioned students from the school year immediately preceding the school year in which the aid was paid;

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

(19) General fund budget of expenditures means 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 79-1023, the general fund budget of expenditures does not include any special grant funds, exclusive of local matching funds, received by a district subject to the approval of the department;

(20) General fund expenditures means all expenditures from the general fund;

(21) General fund operating expenditures means the total general fund expenditures minus categorical funds, tuition paid, transportation fees paid to other districts, adult education, summer school, community services, redemption of the principal portion of general fund debt service, and transfers from other funds into the general fund. (a) For state aid to be paid for school years through 1997-98, general fund operating expenditures shall be as reported in the annual financial reports from the most recently available complete data year, and (b) (i) for state aid certified pursuant to section 79-1022 and budget limitations certified pursuant to section 79-1026 for school year 1998-99 and each year thereafter, general fund operating expenditures shall equal the general fund operating expenditures from the most recently available complete data year, adjusted by the average annual change in each district's general fund operating expenditures for the most recently available complete data year and the two school years immediately preceding the most recently available complete data year and (ii) for final calculation of state aid pursuant to section 79-1065, general fund operating expenditures shall be as reported in the annual financial reports from the most recently available complete data year;

(22) Income tax liability means 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;

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

(24) High school district means a school district providing instruction in at least grades nine through twelve;

(25) Local system means a Class VI district and the associated Class I districts or a Class II, III, IV, or V district and any affiliated Class I districts or portions of Class I districts. The membership, expenditures, and resources of Class I districts that are affiliated with multiple high school districts will be attributed to local systems based on the percent of the Class I valuation that is affiliated with each high school district;

(26) Low-income child means a child under nineteen years of age living in a household having an annual adjusted gross income of fifteen thousand dollars or less for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated;

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

(28) Regular route transportation means the transportation of students on regularly scheduled daily routes to and from the attendance center;

(29) Reorganized district means any district involved in a consolidation and currently educating students following consolidation;

(30) Special education means specially designed kindergarten through grade twelve instruction pursuant to section 79-1125, and includes special education transportation;

(31) Special education allowance means the amount of special education receipts included in local system formula resources under subdivisions (7) and (16) of section 79-1018.01;

(32) State aid means the amount of assistance paid to a district

pursuant to sections 79-1005 and 79-1007 to 79-1022 and for school fiscal year 1998-99 and each school fiscal year thereafter, pursuant to sections 79-1005, 79-1005.01, and 79-1007 to 79-1022;

(33) State board means the State Board of Education;

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

(35) Transportation allowance means: (a) For state aid to be paid through school year 1997-98, the lesser of (i) the general fund expenditures for regular route transportation and in lieu of transportation expenditures pursuant to section 79-611, in the most recently available complete data year, but not including special education transportation expenditures or other expenditures previously excluded from general fund operating expenditures or (ii) the number of miles traveled in the most recently available complete data year by vehicles owned, leased, or contracted by the district for the purpose of regular route transportation multiplied by four hundred percent of the mileage rate established by the Department of Administrative Services pursuant to section 81-1176 as of January 1 of the most recently available complete data year added to in lieu of transportation expenditures pursuant to section 79-611, from the same data year. For school fiscal year 1996-97, the determination of the transportation allowance shall be based on the best available information previously collected by the State Department of Education and shall not include in lieu of transportation expenditures under section 79-611; and (b) for state aid to be paid in school year 1998-99 and each year thereafter, the lesser of (i) the general fund expenditures for regular route transportation and in lieu of transportation expenditures pursuant to section 79-611 in the most recently available complete data year, but not including special education transportation expenditures or other expenditures previously excluded from general fund operating expenditures, except that for state aid certified pursuant to section 79-1022 and budget limitations certified pursuant to section 79-1026, the general fund operating expenditures for regular route transportation and in lieu of transportation expenditures shall equal such expenditures from the most recently available complete data year, adjusted by the average annual change in each district's such expenditures for the most recently available complete data year and the two school years immediately preceding the most recently available complete data year or (ii) the number of miles traveled in the most recently available complete data year by vehicles owned, leased, or contracted by the district for the purpose of regular route transportation multiplied by four hundred percent of the mileage rate established by the Department of Administrative Services pursuant to section 81-1176 as of January 1 of the most recently available complete data year added to in lieu of transportation expenditures pursuant to section 79-611 from the same data year or, for state aid certified pursuant to section 79-1022 and budget limitations certified pursuant to section 79-1026, the in lieu of transportation expenditures for this subdivision shall equal such expenditures from the most recently available complete data year, adjusted by the average annual change in each district's such expenditures for the most recently available complete data year and the two school years immediately preceding the most recently available complete data year; and

(36) Tuitioned students means students in kindergarten through grade twelve of the district whose tuition is paid by the district to some other district or education agency.

Sec. 16. Section 3, Legislative Bill 1134, Ninety-fifth Legislature, Second Session, 1998, is amended to read:

Sec. 3. The Reorganized School Assistance Fund is created. The fund shall receive a transfer of two million dollars from the Cash Reserve Fund on or before September 1, 1998, pursuant to section 84-612. Any money in the Reorganized School Assistance Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The fund shall be used to make base fiscal year incentive payments pursuant to subsection (6) of section 79-1010 and to make transfers to the Cash Reserve Fund.

The State Treasurer shall transfer two million dollars from the General Fund to the Reorganized School Assistance Fund on or before September 1, 1999, and the two million dollars shall be immediately transferred from the Reorganized School Assistance Fund to the Cash Reserve Fund. The Reorganized School Assistance Fund shall terminate on September 2, 1999, and any money remaining in the fund shall revert to the General Fund. ~~It is the intent of the legislature to reduce the appropriation to the Tax Equity and Educational Opportunities Fund for fiscal year 1999-00 by two million dollars.~~

Sec. 17. Section 79-1010, Revised Statutes Supplement, 1997, is

amended to read:

79-1010. (1) To encourage consolidation and unification of school districts, incentives shall be paid to reorganized districts and unified systems in certain size ranges for a three-year period to reward the reorganized districts or unified systems for their efforts to increase efficiency in the delivery of educational services. This section shall only apply to consolidations and unifications with an effective date when the order to change boundaries issued pursuant to subsection (1) of section 79-479, takes effect after May 31, 1996, and before August 2, 2001.

(2) To qualify for incentive payments under this section, the consolidation or unification must be approved for incentive payments by the State Committee for the Reorganization of School Districts. When For consolidations, when reviewing a petition for the boundary change pursuant to section 79-413, the state committee shall issue a preliminary approval or disapproval for incentive payments along with a notice specifying application procedures. Affected For consolidations, affected school districts shall file an application for incentive payments with the state committee within thirty days following the issuance of the boundary change order pursuant to subsection (1) of section 79-479. For unifications, the unified system or participating districts shall file an application for incentive payments with the state committee either following approval of the application for unification or in conjunction with the application for unification. The state committee shall, within thirty days, approve or disapprove incentive payments. For consolidations, if there are no material changes in the reorganization plan between a preliminary approval and application for incentive payments following the boundary change order, the state committee shall approve the incentive payments. If a preliminary disapproval was issued or if there was a material change in the reorganization plan prior to the issuance of the boundary change order, the state committee shall reconsider the approval or disapproval of incentive payments. The state committee shall make the determination regarding whether or not any changes in a reorganization plan are material for the purpose of approving or disapproving incentive payments.

(3) For incentive payments to be approved for either consolidations or unifications by the state committee, a reorganization study, including efficiency, demographic, curriculum, facility, financial and community components, must have been completed. If a study containing such elements was completed and the reorganization plan or unification agreement will most likely result in more efficiency in the delivery of educational services or greater educational opportunities, the state committee may approve incentive payments for the affected districts.

(4) Incentive payments shall be based on the number of students moving from one size range to a lower cost size range based on the average daily membership in each affected district in the school year immediately preceding the first year the boundary change or unification is in effect and the average daily membership each affected district the consolidated district or unified system would have had following the boundary change or unification if it had occurred in the school year immediately preceding the first year the boundary change or unification is in effect. The reorganized school districts or unified systems existing after the qualified boundary change or unification shall receive incentive payments based on the following criteria for each student meeting the criteria:

For grades one through six, including full-day kindergarten:

Average daily membership range before consolidation or unification	Average daily membership range with boundary change or unification	Incentive payment per student who moves from the average daily membership range before consolidation or unification to the average daily membership range with boundary change or unification
.01 - 101.00	101.01 - 185.00	\$ 590
.01 - 101.00	185.01 - 375.00	890
.01 - 101.00	375.01 - 1,000.00	1,190
.01 - 101.00	1,000.01 - 1,900.00	1,320
101.01 - 185.00	185.01 - 375.00	300
101.01 - 185.00	375.01 - 1,000.00	590

101.01 - 185.00	1,000.01 - 1,900.00	730
185.01 - 375.00	375.01 - 1,000.00	300
185.01 - 375.00	1,000.01 - 1,900.00	430
375.01 - 1,000.00	1,000.01 - 1,900.00	130

For grades seven and eight:

Average daily membership range before consolidation <u>or unification</u>	Average daily membership range with boundary change <u>or unification</u>	Incentive payment per student who moves from the average daily membership range before consolidation <u>or unification</u> to the average daily membership range with boundary change <u>or unification</u>
.01 - 31.00	31.01 - 57.00	\$ 710
.01 - 31.00	57.01 - 115.00	1,070
.01 - 31.00	115.01 - 308.00	1,430
.01 - 31.00	308.01 - 585.00	1,590
31.01 - 57.00	57.01 - 115.00	360
31.01 - 57.00	115.01 - 308.00	710
31.01 - 57.00	308.01 - 585.00	870
57.01 - 115.00	115.01 - 308.00	350
57.01 - 115.00	308.01 - 585.00	510
115.01 - 308.00	308.01 - 585.00	160

For grades nine through twelve:

Average daily membership range before consolidation <u>or unification</u>	Average daily membership range with boundary change <u>or unification</u>	Incentive payment per student who moves from the average daily membership range before consolidation <u>or unification</u> to the average daily membership range with boundary change <u>or unification</u>
.01 - 50.00	50.01 - 75.00	\$1,640
.01 - 50.00	75.01 - 100.00	2,550
.01 - 50.00	100.01 - 150.00	2,924
.01 - 50.00	150.01 - 250.00	3,180
.01 - 50.00	250.01 - 500.00	3,450
.01 - 50.00	500.01 - 1,000.00	3,750
50.01 - 75.00	75.01 - 100.00	910
50.01 - 75.00	100.01 - 150.00	1,280
50.01 - 75.00	150.01 - 250.00	1,540
50.01 - 75.00	250.01 - 500.00	1,810
50.01 - 75.00	500.01 - 1,000.00	2,110
75.01 - 100.00	100.01 - 150.00	380
75.01 - 100.00	150.01 - 250.00	630
75.01 - 100.00	250.01 - 500.00	900
75.01 - 100.00	500.01 - 1,000.00	1,200
100.01 - 150.00	150.01 - 250.00	260
100.01 - 150.00	250.01 - 500.00	530
100.01 - 150.00	500.01 - 1,000.00	830
150.01 - 250.00	250.01 - 500.00	270
150.01 - 250.00	500.01 - 1,000.00	570
250.01 - 500.00	500.01 - 1,000.00	300

(5) Incentive Except as otherwise provided in subsection (6) of this section, incentive payments shall be paid directly to the consolidated district or unified system from the Tax Equity and Educational Opportunities Fund. The payments shall be subtracted from the appropriation prior to any calculations affecting the distribution of equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act.

(6) Base fiscal year payments approved by the State Committee for

the Reorganization of School Districts on or before October 1 of the school fiscal year in which the reorganization or unification will occur shall be calculated and paid from the Tax Equity and Educational Opportunities Fund pursuant to subsection (5) of this section with the state aid certified for the base fiscal year. Any base fiscal year payments from the Tax Equity and Educational Opportunities Fund that are not distributed due to proration shall be paid from the Reorganized School Assistance Fund. Unless previously included in the certification of state aid, incentive payments for the base fiscal year shall be calculated as of August 2 immediately preceding the base fiscal year and shall be paid directly to the consolidated district or unified system from the Reorganized School Assistance Fund for the 1998-99 school fiscal year and from the two million dollars set aside from the Tax Equity and Educational Opportunities Fund pursuant to subsection (5) of this section for school fiscal years 1999-00, 2000-01, and 2001-02. The payments shall be made in ten as nearly as possible equal payments on the last business day of each month, beginning in September and ending the following June, for the base fiscal year. If the total amount of incentive payments to school districts for that school fiscal year exceeds the balance of the Reorganized School Assistance Fund for 1998-99 or two million dollars for school fiscal year 1999-00, 2000-01, or 2001-02, the incentive payments under this subsection shall be reduced proportionately so that the total amount of incentive payments to school districts equals the balance of the Reorganized School Assistance Fund or the two million dollars, whichever is applicable. The incentive payments shall not be included in local system formula resources as calculated under section 79-1018.01. No incentive payments shall be made pursuant to this subsection after July 1, 2002.

(7) The payments for consolidations, one hundred percent of the amount calculated pursuant to subsection (4) of this section shall be included in the distribution of state aid for each of the first three consecutive school fiscal years beginning with the base fiscal year. For unifications, one hundred percent of the amount calculated pursuant to subsection (4) of this section shall be included in the distribution of state aid for the first school fiscal year beginning with the base fiscal year, seventy-five percent for the second school fiscal year beginning with the base fiscal year, and fifty percent for the third school fiscal year beginning with the base fiscal year. If a unified system consolidates and the boundary change takes effect before August 2, 2001, the consolidated district will be eligible to receive seventy-five percent of the amount originally calculated pursuant to subsection (4) of this section in the base fiscal year. If a consolidated district is still receiving incentive payments for a unification in the base fiscal year, the payments for the remainder of the first three years will be at one hundred percent of the amount calculated pursuant to subsection (4) of this section and in the fourth year, the district will receive the difference between the incentive payments received and three hundred percent of the amount calculated pursuant to subsection (4) of this section. If additional districts are added to the unified system or are added in a consolidation, the additional incentives shall be calculated by the department and added to the incentive payments.

(8) If, prior to the beginning of the eighth year of operating as a unified system, the unified system (a) discontinues its status as a unified system and (b) does not consolidate, the districts in the unified system shall pay back the incentives. The total incentives paid to the unified system shall be divided between the districts based on the adjusted valuation of each district in the year prior to the discontinuation of the unified system, and each district's share shall be paid back through reductions in state aid in equal amounts for five years. If a district withdraws from a unified system prior to the beginning of the eighth year of participating in the unified system, the district shall pay back the incentives attributable to the district's participation in the unified system through reductions in state aid in equal amounts for five years. The total incentives paid shall include interest calculated from the date of payment until the estimated repayment at the rate specified in section 45-104.02 as of the expiration of the agreement or the effective date of withdrawal. If the state aid is less than the repayment amount in any school fiscal year, the remaining repayment will reduce state aid in future school fiscal years.

(9) If the total amount of incentive payments to school districts for that a school year exceeds one percent of the appropriation to the Tax Equity and Educational Opportunities Fund, the incentive payments shall be reduced proportionately so that the total amount of incentive payments to school districts equals one percent of the appropriation to the Tax Equity and Educational Opportunities Fund. The payments shall not be included in district formula resources as calculated under section 79-1018. No incentive

payments shall be made pursuant to this section after July 1, 2006.

Sec. 18. Section 79-1083.02, Revised Statutes Supplement, 1997, is amended to read:

79-1083.02. Beginning with the 1998-99 school year, on or before December 1 of each year the State Department of Education shall designate a primary high school district for each Class I school district for the following school year. The primary high school district shall be the one Class II, III, IV, V, or VI school district or the unified system with which the greatest share of the Class I district's assessed valuation is affiliated or of which such share is a part. The department shall certify to all school districts and all county clerks the primary high school district for each Class I district.

Sec. 19. Section 79-1098, Reissue Revised Statutes of Nebraska, is amended to read:

79-1098. Whenever it is deemed necessary (1) to erect a schoolhouse or school building or an addition or additions and improvements to any existing schoolhouse or (2) to purchase equipment for such schoolhouse or school buildings, in any school district in this state except a Class I district the school board ~~or board of education~~ may and, upon petition of not less than one-fourth of the legal voters of the school district, shall submit to the people of the school district at the next general election or special election a proposition to vote a special annual tax for that purpose of not to exceed seventeen and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such district for a term of not to exceed ten years. Such special tax may be voted at any annual or special meeting of the district by fifty-five percent of the legal voters attending such meeting.

Sec. 20. Section 79-10,122, Revised Statutes Supplement, 1997, is amended to read:

79-10,122. A tax to establish a special fund for the purpose of erection or repair of a schoolhouse and equipment or the building, and purchasing existing buildings for use as school buildings, including the sites upon which such buildings are located, hiring, or purchasing of a teacherage for the purpose of providing housing facilities for the school employees of any Class I school district may be levied when authorized by fifty-five percent of the legal voters voting on the proposition. The notice of the proposal to establish the special fund shall include the sum to be raised or the amount of the tax to be levied, the period of years, and the time of its taking effect. The tax shall be subject to the restrictions of section 79-1098 ~~79-10,124~~ as to maximum amount and term. If fifty-five percent of the legal voters voting at any such election vote in favor thereof, the result of such election shall be certified to the county board which, upon being satisfied that all the requirements have been substantially complied with, shall enter the proceedings upon the record of the county board and shall make an order that the levy be made and collected as other taxes.

Sec. 21. Section 79-10,124, Reissue Revised Statutes of Nebraska, is amended to read:

79-10,124. The amount of special tax levied under sections 79-10,122 to 79-10,125 shall not exceed ~~seventeen and five-tenths~~ five cents on each one hundred dollars upon the taxable value of all taxable property in the school district above the amount allowed by law for general school purposes when combined with the tax levied by a Class I district under section 79-10,110, and the total amount voted for the period of years shall not exceed five percent of the taxable valuation of the school district.

For Class I districts, the school board of the primary high school district must approve any use of the special tax levied under sections 79-10,110 and 79-10,122 to 79-10,125.

Sec. 22. (1) Temporary mitigation funds shall be distributed to local systems which have property tax and state aid resources for school fiscal year 1998-99 which are less than ninety percent of their property tax and state aid resources for school fiscal year 1997-98. The local system shall receive a lump-sum payment in an amount equal to ninety percent of the school fiscal year 1997-98 property tax and state aid resources minus the school fiscal year 1998-99 property tax and state aid resources if the following criteria are met:

(a) The local system's school fiscal year 1997-98 general fund budget of expenditures minus the special education budget of expenditures did not exceed the school fiscal year 1995-96 general fund budget of expenditures minus the special education budget of expenditures by more than two percent plus the percentage growth in students for the local system; and

(b) (i) The local system has shown an intent to merge, consolidate, or unify with at least one specified high school district by June 1, 1999,

through a public affirmative vote by the school board of the high school district in the local system with a majority of the members of the school board signing an affidavit acknowledging that the intent of the signing board member is to proceed with a merger, consolidation, or unification involving the district on the board of which they are serving. Affidavits shall be filed with the State Department of Education on or before August 1, 1998. The temporary mitigation funds provided in this section shall be returned if the receiving district does not merge, consolidate, or unify prior to June 30, 2000. The temporary mitigation funds need not be returned if, prior to June 30, 2000, the receiving district is unable as determined by the State Committee for the Reorganization of School Districts to merge, consolidate, or unify despite good faith efforts because all districts with which the receiving district could reasonably be expected to merge, consolidate, or unify declined such merger, consolidation, or unification;

(ii) The local system is within the sparse cost grouping or the very sparse cost grouping pursuant to section 79-1007.02; or

(iii) The local system is subject to loss of state aid due to clerical error as defined in subsection (4) of section 79-1016.

(2) If the payments due to local systems under this section exceed the amount of funds appropriated by the Legislature, the funds shall be distributed on a pro rata basis to such local systems. Payments shall be made on or before September 15, 1998. Payments to local systems that include Class I districts shall be divided proportionally among the districts in the local system based on the weighted formula students attributed to each district in the local system for the certification of state aid to be paid in school fiscal year 1998-99. The department shall identify local systems which qualify for payments under this section and shall distribute the funds to the districts in qualifying local systems.

(3) For purposes of this section:

(a) Local system has the definition found in section 79-1003;

(b) Percentage growth in students means the average daily membership for school fiscal year 1996-97 divided by the average daily membership for school fiscal year 1994-95;

(c) Property tax and state aid resources for school fiscal year 1997-98 means the sum of state aid distributed pursuant to the Tax Equity and Educational Opportunities Support Act for school fiscal year 1997-98 plus the product of the general fund common levy for school fiscal year 1997-98 multiplied by the local system's assessed valuation for 1997; and

(d) Property tax and state aid resources for school fiscal year 1998-99 means the sum of state aid certified pursuant to the Tax Equity and Educational Opportunities Support Act for school fiscal year 1998-99 plus the product of a levy of one dollar and ten cents per one hundred dollars multiplied by the local system's adjusted valuation for 1998 as certified by the Property Tax Administrator on or before July 1, 1998.

Sec. 23. Section 84-612, Revised Statutes Supplement, 1997, is amended to read:

84-612. (1) There is hereby created within the state treasury a fund known as the Cash Reserve Fund which shall be under the direction of the State Treasurer. The fund shall only be used pursuant to this section.

(2) The State Treasurer shall transfer funds from the Cash Reserve Fund to the General Fund upon certification by the Director of Administrative Services that the current cash balance in the General Fund is inadequate to meet current obligations. Such certification shall include the dollar amount to be transferred.

(3) Any transfers made pursuant to subsection (2) of this section shall be reversed upon notification by the Director of Administrative Services that sufficient funds are available.

(4) On or before August 1, 1994, the State Treasurer shall transfer six million dollars from the Cash Reserve Fund to the Job Training Cash Fund.

(5) On June 15, 1999, the State Treasurer shall transfer forty million dollars from the Cash Reserve Fund to the General Fund.

(6) On or before September 1, 1998, the State Treasurer shall transfer four million five hundred thousand dollars from the Cash Reserve Fund to the General Fund.

Sec. 24. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 25. Original sections 79-851, 79-852, 79-854, 79-855, 79-856, 79-857, 79-858, 79-1098, and 79-10,124, Reissue Revised Statutes of Nebraska, sections 79-850, 79-1001, 79-1003, 79-1010, 79-1083.02, 79-10,122, and 84-612, Revised Statutes Supplement, 1997, and section 3, Legislative Bill 1134, Ninety-fifth Legislature, Second Session, 1998, are repealed.

Sec. 26. Since an emergency exists, this act takes effect when passed and approved according to law.