

LEGISLATIVE BILL 1229

Approved by the Governor April 8, 1998

Introduced by Bohlke, 33; Abboud, 12; Brashear, 4; Brown, 6; Hillman, 48; D. Pederson, 42; Raikes, 25; Schimek, 27; Schrock, 38; Suttle, 10; Wesely, 26; Wickersham, 49; Willhoft, 34; Beutler, 28

AN ACT relating to education; to amend sections 9-812, 79-214, and 79-1108, Reissue Revised Statutes of Nebraska, sections 79-1105 to 79-1107 and 85-9,145, Revised Statutes Supplement, 1997, and sections 79-1003 and 79-1018.01, Revised Statutes Supplement, 1997, as amended by sections 42 and 44, respectively, Legislative Bill 306, Ninety-fifth Legislature, Second Session, 1998; to change provisions relating to kindergarten entrance age; to provide funds for accelerated or differentiated curriculum programs; to provide duties; to change eligibility criteria for certain postsecondary education awards; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency. Be it enacted by the people of the State of Nebraska,

Section 1. Section 9-812, Reissue Revised Statutes of Nebraska, is amended to read:

9-812. (1) All money received from the operation of lottery games conducted pursuant to the State Lottery Act in Nebraska shall be deposited in the State Lottery Operation Trust Fund, which fund is hereby created. All payments of expenses of the operation of the lottery games shall be made from the State Lottery Operation Cash Fund. In accordance with legislative appropriations, money for payments for expenses of the division shall be transferred from the State Lottery Operation Trust Fund to the State Lottery Operation Cash Fund, which fund is hereby created. All money necessary for the payment of lottery prizes shall be transferred from the State Lottery Operation Trust Fund to the State Lottery Prize Trust Fund, which fund is hereby created. The amount used for the payment of lottery prizes shall not be less than forty percent of the dollar amount of the lottery tickets which have been sold. At least twenty-five percent of the dollar amount of the lottery tickets which have been sold on an annualized basis shall be transferred from the State Lottery Operation Trust Fund to the Education Innovation Fund, the Solid Waste Landfill Closure Assistance Fund, the Nebraska Environmental Trust Fund, and the Compulsive Gamblers Assistance Fund. Forty-nine and one-half percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Education Innovation Fund. Beginning on July 15, 1993, and continuing through July 1, 1997, twenty-four and one-half percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Solid Waste Landfill Closure Assistance Fund and twenty-five percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act. After July 1, 1997, forty-nine and one-half percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act. One percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Compulsive Gamblers Assistance Fund to be used as provided in sections 83-162.01 to 83-162.04.

(2) The Education Innovation Fund is hereby created. Each fiscal year beginning with fiscal year 1994-95, at least seventy-five percent of the lottery proceeds allocated to the Education Innovation Fund shall be available for disbursement. The Education Innovation Fund shall be allocated by the Governor through incentive grants to encourage the development of strategic school improvement plans by school districts for accomplishing high performance learning and to encourage schools to establish innovations in programs or practices that result in restructuring of school organization, school management, and instructional programs which bring about improvement in the quality of education. Such grants are intended to provide selected school districts, teachers or groups of teachers, nonprofit educational organizations, educational service units, or cooperatives funding for the allowable costs of implementing pilot projects and model programs.

Minigrants shall be available to school districts to support the development of strategic school improvement plans which shall include statements of purposes and goals for the districts. The plans shall also

include the specific statements of improvement or strategic initiatives designed to improve quality learning for every student.

In addition to the minigrants granted for the development of strategic school improvement plans, school districts with annual budget expenditures of three hundred fifty thousand dollars or less are eligible for minigrants for the purposes allowed in subdivisions (2)(a) through (g) of this section. The amount of this type of minigrant shall not exceed five thousand dollars. The school district shall present a curriculum support plan with its application for the grant. The curriculum support plan must show how the district is working to achieve one or more of the allowed purposes and how the grant will be used to directly advance the plan to achieve one or more of these purposes. The plan must be signed by the school administrator and a school board representative. The application for the grant shall be brief. The Excellence in Education Council shall select the recipients of this type of minigrant and shall administer such minigrants.

Major competitive grants shall be available to support innovative programs which are directly related to the strategic school improvement plans. The development of a strategic school improvement plan by a school district shall be required before a grant is awarded. Annual reports shall be made by program recipients documenting the effectiveness of the program in improving the quality of education as designed in the strategic school improvement plans. Special consideration shall be given to plans which contain public or private matching funds and cooperative agreements, including agreements for in-kind services. Purposes for which incentives would be offered shall include:

(a) Professional staff development programs to provide funds for teacher and administrator training and continuing education to upgrade teaching and administrative skills;

(b) The development of strategic school improvement plans by school districts;

(c) Educational technology assistance to public schools for the purchase and operation of computers, telecommunications equipment and services, and other forms of technological innovation which may enhance classroom teaching, instructional management, and districtwide administration pursuant to the state's goal of ensuring that all kindergarten through grade twelve public school districts or affiliated school systems have a direct connection to a statewide public computer information network by June 30, 2000. The telecomputing equipment and services needed to meet this goal may be funded under this subsection, sections 79-1233 and 79-1310, or any combination of such subsection and sections. Such telecommunications equipment, services, and forms of technical innovation shall be approved by the State Department of Education in consultation with the Department of Administrative Services to insure compatibility of technologies and compliance with statewide priorities;

(d) An educational accountability program to develop an educational indicators system to measure the performance and outcomes of public schools and to ensure efficiency in operations;

(e) Alternative programs for students, including underrepresented groups, at-risk students, and dropouts;

(f) Programs that demonstrate improvement of student performance against valid national and international achievement standards;

(g) Early childhood and parent education which emphasizes child development;

(h) Programs using decisionmaking models that increase involvement of parents, teachers, and students in school management;

(i) Increased involvement of the community in order to achieve increased confidence in and satisfaction with its schools;

(j) Development of magnet or model programs designed to facilitate desegregation;

(k) Programs that address family and social issues impairing the learning productivity of students;

(l) Programs enhancing critical and higher-order thinking capabilities;

(m) Programs which produce the quality of education necessary to guarantee a competitive work force;

(n) Programs designed to increase productivity of staff and students through innovative use of time;

(o) Training programs designed to benefit teachers at all levels of education by increasing their ability to work with educational technology in the classroom;

(p) Approved accelerated or differentiated curriculum programs ~~or~~ services under sections 79-1106 to 79-1108 and sections 9 to 11 of this act;

and

(q) Programs for students with disabilities receiving special education under the Special Education Act and students needing support services as defined in section 79-1185, which programs demonstrate improved outcomes for students through emphasis on prevention and collaborative planning.

The Governor shall establish the Excellence in Education Council. The Governor shall appoint eleven members to the council including representatives of educational organizations, postsecondary educational institutions, the business community, and the general public, members of school boards and parent education associations, school administrators, and at least four teachers who are engaged in classroom teaching. The State Department of Education shall provide staff support for the council. The council shall have the following powers and duties:

(i) In consultation with the State Department of Education, develop and publish criteria for the awarding of grants for programs pursuant to this subsection, including minigrants;

(ii) Provide recommendations to the Governor regarding the selection of projects to be funded and the distribution and duration of project funding;

(iii) Establish standards, formats, procedures, and timelines for the successful implementation of approved programs funded by the Education Innovation Fund;

(iv) Assist school districts in determining the effectiveness of the innovations in programs and practices and measure the subsequent degree of improvement in the quality of education;

(v) Consider the reasonable distribution of funds across the state and all classes of school districts; and

(vi) Provide annual reports to the Governor concerning programs funded by the fund. Each report shall include the number of applicants and approved applicants, an overview of the various programs, objectives, and anticipated outcomes, and detailed reports of the cost of each program.

To assist the council in carrying out its duties, the State Board of Education shall, in consultation with the council, adopt and promulgate rules and regulations establishing criteria, standards, and procedures regarding the selection and administration of programs funded from the Education Innovation Fund.

(3) Recipients of grants from the Education Innovation Fund shall be required to provide, upon request, such data relating to the funded programs and initiatives as the Governor deems necessary.

(4) Any money in the State Lottery Operation Trust Fund, the State Lottery Operation Cash Fund, the State Lottery Prize Trust Fund, or the Education Innovation 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.

(5) Unclaimed prize money on a winning lottery ticket shall be retained for a period of time prescribed by rules and regulations. If no claim is made within such period, the prize money shall be used at the discretion of the Tax Commissioner for any of the purposes prescribed in this section.

Sec. 2. Section 79-214, Reissue Revised Statutes of Nebraska, is amended to read:

79-214. (1) Except as provided in subsection (2) of this section, the school board or board of education of any school district shall not admit any child into the kindergarten or beginner grade of any school of such school district unless such child has reached the age of five years or will reach such age on or before October 15 of the current year.

(2) The board may admit a child who will reach the age of five between October 16 and February 1 of the current school year if the parent or guardian requests such entrance and provides an affidavit stating that (a) the child attended kindergarten in another jurisdiction in the current school year, or (b) the family anticipates a relocation to another jurisdiction that would allow admission within the current year, or (c) the child has demonstrated through recognized assessment procedures approved by the board that he or she is capable of carrying the work of kindergarten or the beginner grade.

(3) The board may require a birth certificate prior to entrance of a child into the beginner grade and shall require evidence of a physical examination by a physician, physician assistant, or nurse practitioner within six months prior to the entrance of a child into the beginner grade and the seventh grade or, in the case of a transfer from out of state, to any other grade of the local school, except that no such physical examination shall be required of any child whose parent or guardian objects in writing. The cost

of such physical examination shall be borne by the parent or guardian of each child who is examined.

Sec. 3. Section 79-1003, Revised Statutes Supplement, 1997, as amended by section 42, Legislative Bill 306, Ninety-fifth Legislature, Second Session, 1998, 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 prior to the 1995-96 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 fiscal year following the year in which the reorganization 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 and accelerated or differentiated curriculum program receipts included in local system formula resources under subdivisions (7) and (17) and

and (18) 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. 4. Section 79-1018.01, Revised Statutes Supplement, 1997, as amended by section 44, Legislative Bill 306, Ninety-fifth Legislature, Second Session, 1998, is amended to read:

79-1018.01. For school fiscal year 1998-99 and each school fiscal year thereafter, local system formula resources include other actual receipts available for the funding of general fund operating expenditures as determined by the department for the most recently available complete data year, except that receipts from the Community Improvements Cash Fund and receipts acquired pursuant to the Low-Level Radioactive Waste Disposal Act shall not be included. Other actual receipts include:

- (1) Public power district sales tax revenue;
- (2) Fines and license fees;
- (3) Tuition receipts from individuals, other districts, or any other source except those derived from adult education;
- (4) Transportation receipts;
- (5) Interest on investments;
- (6) Other miscellaneous noncategorical local receipts, not including

receipts from private foundations, individuals, associations, or charitable organizations;

(7) Special education receipts, excluding grant funds received pursuant to section 9-812;

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

(9) All receipts from the temporary school fund;

(10) Receipts from the Insurance Tax Fund, except that for the calculation of state aid to be paid in school year 1996-97 and each school year thereafter, other actual receipts do not include Insurance Tax Fund receipts;

(11) Motor vehicle tax receipts received on or after January 1, 1998;

(12) Pro rata motor vehicle license fee receipts;

(13) Other miscellaneous state receipts excluding revenue from the textbook loan program authorized by section 79-734;

(14) Impact aid entitlements for the school fiscal year which have actually been received by the district to the extent allowed by federal law;

(15) All other noncategorical federal receipts;

(16) All receipts pursuant to the enrollment option program under sections 79-232 to 79-246; ~~and~~

(17) Receipts under the federal Medicare Catastrophic Coverage Act of 1988 as authorized pursuant to sections 43-2510 and 43-2511 but only to the extent of the amount the district would have otherwise received pursuant to the Special Education Act; ~~and~~

(18) Receipts for accelerated or differentiated curriculum programs pursuant to sections 79-1106 to 79-1108 and sections 9 to 11 of this act.

For state aid to be paid for school years through 1997-98, other actual receipts shall be as reported in the annual financial reports from the most recently available complete data year. For state aid certified pursuant to section 79-1022 for school year 1998-99 and each year thereafter, other actual receipts shall equal each district's other actual receipts from the most recently available complete data year, adjusted by the average annual change in each district's other actual receipts for the most recently available complete data year and the two school years immediately preceding the most recently available complete data year. For final calculation of state aid pursuant to section 79-1065, other actual receipts shall be as reported in the annual financial reports from the most recently available complete data year.

Sec. 5. Section 79-1105, Revised Statutes Supplement, 1997, is amended to read:

79-1105. The State Department of Education has authority to employ a full-time ~~special~~ consultant trained and experienced in the field of ~~special~~ education for learners with high ability. Such consultant shall encourage, advise, and consult with each school of the state in the development and implementation of plans for ~~special~~ education of learners with high ability and shall monitor the implementation of sections 79-1106 to 79-1108 ~~and sections 9 to 11 of this act~~. For purposes of this section, learner with high ability has the definition found in section 79-1107.

Sec. 6. Section 79-1106, Revised Statutes Supplement, 1997, is amended to read:

79-1106. The purpose of sections 79-1106 to 79-1108 ~~and sections 9 to 11 of this act~~ is to assist and encourage all school districts in the development, improvement, and implementation of ~~educational programs or services accelerated or differentiated curriculum programs~~ that will serve the educational needs of learners with high ability at levels appropriate for their abilities.

Sec. 7. Section 79-1107, Revised Statutes Supplement, 1997, is amended to read:

79-1107. For purposes of sections 79-1106 to 79-1108 ~~and sections 9 to 11 of this act~~:

(1) ~~Approved programs or services accelerated or differentiated curriculum programs~~ means academic programs or services that serve the educational needs of learners with high ability developed and approved under section 79-1108;

(2) Department means the State Department of Education; and

(3) Learner with high ability means a student who gives evidence of high performance capability in such areas as intellectual, creative, or artistic capacity or in specific academic fields and who requires ~~services or activities not ordinarily provided by the school~~ accelerated or differentiated curriculum programs in order to develop those capabilities fully.

Sec. 8. Section 79-1108, Reissue Revised Statutes of Nebraska, is

amended to read:

79-1108. For school year 1997-98 and each school year thereafter, each school district ~~or educational service unit serving or contracting with a school district to provide programs or services~~ shall identify learners with high ability and each such school district ~~or educational service unit shall, contingent upon available local, state, or federal funding, provide programs or services may provide accelerated or differentiated curriculum programs~~ that will address the educational needs of the identified students at levels appropriate for the abilities of those students. The programs or services accelerated or differentiated curriculum programs shall meet the standards of quality for programs or services for learners with high ability established by the department. Educational service units may identify learners with high ability and provide accelerated or differentiated curriculum programs for school districts. Any school district or educational service unit shall be eligible to apply for funds from the Education Innovation Fund to be used for development and improvement of the approved ~~programs or services accelerated or differentiated curriculum programs~~ of the district or ~~educational service unit.~~

Sec. 9. School districts shall annually provide the department with a copy of their criteria for identifying learners with high ability, the number of students identified according to the criteria, and the number of students participating in an approved accelerated or differentiated curriculum program. School districts shall also have a list of the students identified and how the students compare to the criteria available for inspection by department personnel.

Sec. 10. (1) Beginning with school fiscal year 1998-99, the Legislature shall appropriate funds to be distributed by the department pursuant to subsections (2) and (3) of this section to local systems as defined in section 79-1003 annually on or before October 15. It is the intent of the Legislature to appropriate, for FY1998-99, six million dollars and, for FY1999-00 and each fiscal year thereafter, the amount of the previous year's appropriation increased by the percentage growth in identified participating students plus the basic allowable growth rate in section 79-1025, to carry out this section.

(2) For school fiscal years through 2000-01, five percent of the appropriation under subsection (1) of this section shall be reserved for distribution as grants to local systems for startup costs as defined by the State Board of Education. The funds distributed pursuant to this subsection shall be distributed based on a pro rata share of the eligible costs submitted in grant applications.

(3) Local systems may apply to the department for base funds and matching funds pursuant to this section to be spent on approved accelerated or differentiated curriculum programs. Each eligible local system shall receive one-tenth of one percent of the appropriation as base funds plus a pro rata share of the remainder of the appropriation based on identified students participating in an accelerated or differentiated curriculum program, up to ten percent of the prior year's fall membership as defined in section 79-1003, as matching funds. Eligible local systems shall:

(a) Provide an approved accelerated or differentiated curriculum program for students identified as learners with high ability;

(b) Provide funds from other sources for the approved accelerated or differentiated curriculum program greater than or equal to fifty percent of the matching funds received pursuant to this subsection;

(c) Provide an accounting of the funds received pursuant to this section, funds required by subdivision (b) of this subsection, and the total cost of the program on or before August 1 of the year following the receipt of funds in a manner prescribed by the department, not to exceed one report per year;

(d) Provide data regarding the academic progress of students participating in the accelerated or differentiated curriculum program in a manner prescribed by the department, not to exceed one report per year; and

(e) Include identified students from Class I districts that are part of the local system in the accelerated or differentiated curriculum program.

If a local system will not be providing the necessary matching funds pursuant to subdivision (b) of this subsection, the local system shall request a reduction in the amount received pursuant to this subsection such that the local system will be in compliance with such subdivision. Local systems not complying with the requirements of this subsection shall not be eligible local systems in the following year.

Sec. 11. The State Board of Education shall adopt and promulgate rules and regulations to implement sections 79-1105 to 79-1108 and sections 9 to 11 of this act, including criteria for the approval of accelerated or

differentiated curriculum programs and data requirements for measuring academic progress of students participating in the accelerated or differentiated curriculum programs.

Sec. 12. Section 85-9,145, Revised Statutes Supplement, 1997, is amended to read:

85-9,145. Eligible postsecondary educational institution shall mean a not-for-profit institution not controlled or administered by any state agency or any political subdivision of the state which is:

- (1) Located in Nebraska;
- (2) Primarily engaged in instruction of students;
- (3) Accredited by a regional accrediting organization recognized by

the United States Department of Education, except that (a) any postsecondary educational institution which has maintained nonprofit status since July 1, 1991, and is not controlled or administered by any state agency or political subdivision shall be deemed an eligible postsecondary educational institution so long as it is accredited by an accrediting organization recognized by the United States Department of Education and (b) any postsecondary educational institution which has maintained nonprofit status since January 1, 1998, and is not controlled or administered by any state agency or political subdivision shall be deemed an eligible postsecondary educational institution until July 1, 2001, so long as it is accredited by an accrediting organization recognized by the United States Department of Education; and

(4) Offering courses and programs of instruction leading to an associate or baccalaureate degree to regularly enrolled undergraduate students who reside in Nebraska and have received high school diplomas or their equivalent.

Sec. 13. Sections 12, 13, 14, and 16 of this act become operative on their effective date. The other sections of this act become operative three calendar months after adjournment of this legislative session.

Sec. 14. Original section 85-9,145, Revised Statutes Supplement, 1997, is repealed.

Sec. 15. Original sections 9-812, 79-214, and 79-1108, Reissue Revised Statutes of Nebraska, sections 79-1105 to 79-1107, Revised Statutes Supplement, 1997, and sections 79-1003 and 79-1018.01, Revised Statutes Supplement, 1997, as amended by sections 42 and 44, respectively, Legislative Bill 306, Ninety-fifth Legislature, Second Session, 1998, are repealed.

Sec. 16. Since an emergency exists, this act takes effect when passed and approved according to law.