

Nebraska Council of School Administrators

NCSA Legislative Report, 2008

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I. Bills Passed into Law

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 39	Schimek	Petition circulation	Veto override 2/19/08; 30-17	7/18/08

LB 39 changes provisions related to petitions and circulators. The bill allows only an elector of the State of Nebraska to qualify as a valid circulator of a petition. It adds language so that circulators may be paid an hourly wage rather than based upon the number of signatures collected. It requires campaign statements filed with the Accountability and Disclosure Commission to include the total amount paid to individual circulators during the report period.

The Legislature passed LB 39 on February 6th by a 31-14 vote. Governor Dave Heineman subsequently vetoed the measure. In his veto message, the Governor said the proposed restrictions in LB 39, when combined with existing signature threshold requirements, “would unfairly inhibit the ability of citizens to petition their government.”

On February 19th the Legislature passed LB 39 over the Governor’s objections by a 30-17 vote.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 204	Synowiecki	Contractor Registration Act	2/1/08; 31-16	7/18/08

LB 204 amends the Contractor Registration Act, which was first enacted in 1994. The current law requires contractors doing business in counties with a population greater than 100,000 inhabitants to register with the Department of Labor. LB 204 would expand the registration requirements to all 93 counties in the State.

The definition of “contractor” is amended to mean a person who engages in the business of construction and includes a subcontractor, a general contractor, and any other person arranging for the performance of construction. A person who earns less than \$5,000 annually or who performs work or has work performed on his or her own property is not considered a contractor.

Before performing any construction work in any county of Nebraska, a contractor must be registered with the Department of Labor.

As per existing law, the Commissioner of Labor must issue a citation to a contractor when an investigation reveals that the contractor has violated: (i) The requirement that the contractor be registered; or (ii) the requirement that the contractor’s registration information be substantially complete and accurate.

Also, as per existing law, if a citation is issued, the commissioner will notify the contractor of the proposed administrative penalty. The penalty would be not more than \$500 in the case of a first violation and not more than \$5,000 in the case of a second or subsequent violation.

Under LB 204, if a citation is issued and if the contractor has never been registered under the Contractor Registration Act, the contractor would have 60 working days from the date of the citation to register. No administrative penalty would be assessed if the contractor registers within such 60-day period. However, this provision is temporary and remains in effect only until March 1, 2009. After that date, the fines would become applicable in those cases.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 205	Howard	Adopt bullying policies	2/1/08; 41-0	2/8/08

LB 205 declares that: (a) Bullying disrupts a school’s ability to educate students; and (b) bullying threatens public safety by creating an atmosphere in which such behavior can escalate into violence.

The bill defines bullying as “any ongoing pattern of physical, verbal, or electronic abuse on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose by a school employee or his or her designee, or at school-sponsored activities or school-sponsored athletic events.”

By July 1, 2009, LB 205 requires each school district to develop and adopt a policy concerning bullying prevention and education for all students. The legislation provides no guidelines or stipulations on the content of the policy. However, the district must review the policy annually.

LB 205 also amends the Nebraska Student Discipline Act concerning the grounds for long-term suspension, expulsion, or mandatory reassignment to include engaging in bullying as defined in the bill.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 279	Stuthman	Driver training schools	3/4/08; 44-0	7/18/08

LB 279 allows a public or private educational facility to be designated a driver training school for driver training. Rules and regulations, which were adopted prior to the effective date of the bill, would remain in effect and applicable to all driver training schools and instructors until new rules and regulations are adopted and promulgated by the Department of Motor Vehicles.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 312	Aguilar	Recall elections, vacancies	2/1/08; 45-0	7/18/08

LB 312 changes several provisions relating to recall elections. The bill provides that the governing body will order a recall election to be held not less than 30 nor more than 45 days after the official whose removal is sought is notified that sufficient signatures have been gathered on the recall petition.

If there is another election being held in that political subdivision within 90 days after such notification, the recall election will be held on the same day. If the official whose removal is sought resigns before the election is held, the governing body may cancel the recall election if the governing body notifies the election commissioner or county clerk of the notification at least 16 days prior to the election. If the body does not receive such notification, the recall election will be held as scheduled. If a recall election is canceled, the political subdivision will be responsible for the costs incurred related to the canceled election.

Finally, the bill requires all resignations to be in writing.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 747	Aguilar	Energy finance contracts	3/4/08; 47-0	7/18/08

In 1998 legislation was passed to create guidelines for energy-based finance contracts. LB 1129 (1998) defined “energy financing contract” as an agreement between an energy service company and a governmental unit for the implementation of one or more energy conservation measures in an existing facility in exchange for a portion of the energy cost savings produced. The term energy financing contract may include (but not limited to) performance contracts, shared-savings contracts, guaranteed contracts, and lease-purchase contracts. LB 1129 provided an exception for the normal public bidding process when the contract at issue is an energy financing contract with an energy service company.

LB 747 (2008) allows energy financing contract payments to be made for a period not to exceed 30 years after the date of installation of the energy conservation measures. The current contract period is 15 years.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 777	Hudkins	Agricultural land	4/7/08; 25-15	1/1/09

As amended and passed, LB 777 changes the definition of agricultural land. Under the bill, agricultural land and horticultural land means a parcel of land, excluding any building or

enclosed structure and the land associated with such building or enclosed structure located on the parcel, which is primarily used for agricultural or horticultural purposes, including wasteland lying in or adjacent to and in common ownership or management with other agricultural land and horticultural land. The difference from the current definition is the exclusion of buildings located on the land. The bill becomes operative on January 1, 2009.

The Legislative Fiscal Office reports that, with respect to local governments, there could be some shift in taxes levied depending on how this new definition changes property valuations. The extent is unknown.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 782	Howard	Child abuse and neglect	3/4/08; 47-0	3/11/08

In 2002 the Legislature passed legislation (LB 642) relating to disclosure of information concerning child abuse and neglect. Under the current law, only very limited information may be released to the public by the Department of Health and Human Services (HHS). This information includes whether a child is a state ward or was previously a state ward, when a child became a ward, when custody was terminated, adjudication type, status of parental rights, and whether other children in the family are in state custody.

In the event of a death or near fatality of a child resulting from child abuse or neglect, HHS can provide additional information if a person has been criminally charged and has been convicted or acquitted, or a county attorney certifies a person would have been charged prior to that person's death. In this situation, HHS can provide a written summary containing information about actions taken and services rendered by the Department, confirmation of reports received by the Department, and information about investigations conducted by the Department.

LB 782 (2008) expands the information that HHS can release regarding cases of abuse and neglect under the principle that the public has a legitimate interest in knowing more when such tragic events occur. The bill outright repeals most of what was passed into law in 2002 and creates a new process for release of information.

The bill permits the chief executive officer of the Department of Health and Human Services or the Director of the Division of Child and Family Services within HHS to disclose information regarding child abuse or neglect and the investigation of and any services related to the child abuse and neglect if:

- (1) The CEO or director determines that the disclosure is not contrary to the “best interests”^{††} of the child, the child’s siblings, or other children in the household, and
- (2) any one of the following factors is present:
 - (a) the alleged perpetrator of the child abuse or neglect has been charged with a crime related to the report of child abuse or neglect maintained by the division;

- (b) a judge, law enforcement agency official, county attorney, or other state or local investigative agency **or official** has publicly disclosed the provision of services related to or the investigation of the child abuse or neglect;
- (c) a person who is the parent, custodian, foster parent, provider, or guardian of the victim or a child victim over 14 years of age has made a prior knowing, voluntary, public disclosure;
- (d) the information relates to a child fatality or near fatality;
- (e) the information is released to confirm, clarify, or correct information concerning an allegation or actual instance of child abuse or neglect which has been made public by sources other than the department; or
- (f) a child who his in the custody of the department is missing from his or her placement, in which case the CEO or director may release the name and physical description of the child.

Types of information that may be disclosed include, but are not limited to: (i) child placement; (ii) whether in-home or out-of-home; (iii) terms of contact; (iv) hearing dates; (v) reason for removal from parents or placement; (vi) number of placements and type; (vii) permanency objectives; (viii) court-ordered services or other services provided by the division; and (ix) status of the court process.

The following information may only be released with a court order: (i) date of birth; (ii) social security number; (iii) protected health information; (iv) name of the person who made the report of child abuse or neglect; and (v) names of foster parents, unless the foster parent is the alleged perpetrator.

The bill permits the CEO or director to release the results of criminal history record checks that have been completed by the division as authorized by law.

^{††} The bill provides that the best interests of the child, the child’s siblings, or other children in the household does not allow the disclosure of information that would impede a pending or current criminal investigation by a law enforcement agency.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 850	Erdman	Insurance coverage	4/15/08; 45-0	7/18/08

LB 850 provides that school districts, learning communities and educational service units may allow board or council members to participate in health and life insurance plans offered to employees. Board or council members opting to participate in such plans are required to pay both the employee and employer portions of the premium for such coverage.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 889	Flood	Construction alternatives	4/7/08; 49-0	7/18/08

In 2002, the Legislature passed LB 391 to create the Nebraska Schools Construction Alternatives Act. The legislation was sought by NCSA and other education groups in order to offer school districts alternatives to the traditional bid process. In fact, the central component of LB 391 was the ability of a school district to bypass the normal bidding procedure. Under the normal “design-bid-build” process, school construction involves hiring an architect or engineer to design the project with extensive drawings and specifications, requesting and reviewing construction bids, and then contracting with a construction company to build.

As passed by the Legislature, LB 391 (2002) created two new construction delivery systems for public schools: (i) the design-build (qualification based selection) system, and (ii) the construction management at risk system.

LB 889 (2008) makes three significant changes to the Nebraska Schools Construction Alternatives Act. First, the bill proposes to make the act available to other political subdivisions, including: municipalities, counties, school districts, community colleges, and state colleges. Accordingly, LB 889 will change the title of the act to the “Political Subdivisions Construction Alternatives Act.”

The second significant component of LB 889 is to outright repeal the section of the original law passed in 2002, which places restrictions on the number of contracts that could be executed using either the design-build system or the construction management at risk system.

Under current law, no more than 24 contracts may be executed under the Nebraska Schools Construction Alternatives Act as follows:

- a. For contracts under \$2 million, four contracts in each congressional district;
- b. For contracts of at least \$2 million but under \$10 million, two contracts in each congressional district; and
- c. For contracts of \$10 million or more, two contracts in each congressional district.

LB 889 eliminates this section of law and would thereby permit unrestricted use of either construction system.

The third major component of LB 889 would require at least a 2/3s affirmative vote of a governing body of a political subdivision to adopt a resolution selecting the design-build or construction management at risk contract delivery system. The current law requires an affirmative vote of at least 75%.

As amended and passed, LB 889 also prohibits political subdivisions from using design-build or construction management at risk contracts for road, street, highway, water, wastewater, utility, or sewer construction projects except that a city of the metropolitan class may use such contracts

for the purpose of complying with state or federal requirements to control or minimize overflows from combined sewers.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 914	Revenue Committee	Collection of funds	3/13/08; 42-0	See below

LB 914 is an omnibus revenue bill and contains provisions relating to (i) tax liability for managers of limited liability companies, (ii) petitioning periods, (iii) authorities of the Tax Commissioner, (iv) reporting of fines, and (v) provides for the creation of the Nebraska Incentive Fund.

Section 25 of LB 914 amends an existing law (§ 79-1034) relating to school funds and collection of fines and other school money.

Under current law, the county treasurer of each county must collect fines and all money for school purposes and take all proper measures to secure to each district its full amount of school funds. County treasurers then semiannually provide to the State Treasurer and Tax Commissioner a statement showing the amount of money collected on behalf of school districts from all sources, noting the interest separately, and the amount received on account of licenses and fines and from all other sources from which school funds are derived.

LB 914 amends this section of law to eliminate the Tax Commissioner from the notification of fines and penalties turned over to school districts. The State Treasurer would still receive the semiannual report. Section 25 would become operative on July 18, 2008.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 962	Preister	Open Meetings Act	3/13/08; 46-0	7/18/08

Under the current provisions of the Open Meetings Act, no public body may require members of the public to identify themselves as a condition for admission to the meeting. However, the law states that a public body may require any member of the public desiring to address the body to identify himself/herself.

LB 962 stipulates that a public body may not require that the name of any member of the public be placed on the agenda prior to a meeting in order to speak about items on the agenda.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 988	Raikes	State aid formula	4-2-08; 33-14	4/3/08

LB 988 changes the Tax Equity and Educational Opportunities Support Act which provides state aid to school districts, beginning in 2008-09. The bill provides that the certification of state aid

for 2008-09 is null and void and requires aid to be recertified by April 30, 2008 or the fifteenth day after the effective date of the bill, whichever occurs later, using the provisions of LB 988. A computer run generated by the State Department of Education models the changes in the bill for 2008-09. Some portions of the bill, as noted in the fiscal note, will not go into effect until 2009-10 or thereafter.

CHANGES TO NEEDS IN THE FORMULA: The bill changes various portions of the computation of school district needs in the state aid formula.

Basic Funding: The bill changes the computation of the needs component of the state aid formula beginning in 2008-09. Instead of using cost groups as the primary basis to calculate need, the bill establishes comparison groups for each school district to determine the amount of basic funding. The comparison group for a school district is the next five larger districts and the next five smaller districts in size based upon the number of formula students. Basic funding is determined by first subtracting allowances to determine adjusted general fund operating expenditures. Then, for schools with less than 900 formula students, the basic funding for the district becomes the average of the adjusted general fund operating expenditures of the comparison group of school districts, omitting the high and low districts from the calculation. Basic funding for schools with 900 or more formula students will be based on average adjusted general fund operating expenditures per student for the comparison group, excluding the high and low districts.

The change from using cost groups to comparison groups for purposes of calculating basic funding will result in an estimated \$16 million decrease in the needs calculation in 2008-09 due to the exclusion of the high and low spending school districts in the comparison groups. The change in needs for any school district depends upon the relative spending of the district to the spending of other school districts in a comparison group. The calculated amount of needs for the basic funding component of the formula is about \$2.1 billion.

Formula Students: The calculation of formula students is changed to reduce the number of formula students by .5 for each student enrolled in less than full-day kindergarten. Formula students is also changed to include 60% of the qualified early childhood education fall membership. The formula currently weights early childhood education students at .06. The changes will alter the number of students used in the formula to calculate state aid. Districts not offering full-day kindergarten will have a lower number of formula students. Changes in formula students shift need between school districts.

General Fund Operating Expenditures: The definition of general fund operating expenditures (GFOE) is changed to include expenditures for summer school. GFOE is also redefined to exclude receipts to the general fund to the extent the receipts are not included in formula resources from early childhood education tuition, summer school tuition, converted contracts, distance education courses, private foundations and other private sources, the textbook loan program, federal impact aid, and transfers from the general fund to a bond fund and transfers from other funds into the general fund. Beginning in 2010-11, GFOE will also exclude the proceeds of levy override elections. Any changes in GFOE as a result of the inclusion of summer school as an expenditure and the exclusion of the other items as expenditures changes total needs in the formula. The changes decrease formula needs by \$34.1 million in 2008-09.

Cost Growth Factor: The bill changes the cost growth factor, which is used to increase general fund operating expenditures in the formula. The component in the cost growth factor for enrollment growth is eliminated as is the growth due to a board vote. The cost growth factor in the 2008-09 certification of state aid is 1.078. The bill changes the factor to 1.06, based upon the current allowable growth rate. The change in the factor reduces the amount of formula need by \$37.9 million in 2008-09.

Allowances: The bill establishes new allowances for summer school and elementary sites and also modifies existing allowances for elementary class size and poverty. A new instructional time allowance is also established beginning in 2009-10. Typically, allowances do not change the overall amount of the needs calculation, but will alter the distribution of needs between school districts. An allowance enables expenditures for these types of programs to be attributed to the school district actually providing the program. ---*Summer School Allowance:* The summer school allowance for each district equals 2.5% of summer school units times 85% of the statewide average general fund operating expenditures per formula student. Summer school units are based upon the number of students attending summer school and the days attended. The summer school allowance allocates \$6.6 million of need in the formula in 2008-09 to school districts with summer school programs.

- *Elementary Site Allowance:* The new allowance for elementary sites is based upon a formula in the bill providing an amount for each elementary site if: a district has more than one elementary building; at least one elementary building does not offer any other grades; there are at least 100 sq. miles per elementary building in the district; and, an average of 15 or fewer students per grade per building. The elementary site allowance allocates \$12.7 million of formula need to school districts, which are eligible for the allowance.
- *Elementary Class Size Allowance:* The bill modifies the existing elementary class size allowance beginning in **2009-10** and makes the allowance applicable only through 2012-13. The class size allowance in 2009-10 to 2012-13 is modified to apply to students in grades K-3 regardless of poverty status who spend at least 50% of the day in one or more classrooms with 10-20 students. The class size allowance in 2008-09 is \$63.9 million based upon students in grades 3 – 8 who qualify for free and reduced price lunches and spend at least 50% of the day in one classroom with 10 -20 students. The new requirements change the amount of the allowance and shift an unknown amount of need between school districts.
- *Poverty Allowance:* The bill changes various provisions relating to poverty allowances. The bill increases the maximum poverty allowance from 61% to 75%. The transportation and class size requirements for poverty plans are changed. Poverty allowance expenditures are limited to expenses that are paid for with state and local taxes and expenditures not included in other allowances. The bill also changes the definition of poverty students beginning in 2009-10. The poverty allowance calculates to \$63 million of need in 2008-09, which will be allocated to school districts eligible for the allowance.

- *Instructional Time Allowance:* An instructional time allowance is included in the calculation of needs beginning in **2009-10**. The allowance is equal to formula students times an instructional time factor times 85% of the statewide average general fund operating expenditures per formula student. The instructional time factor is based upon the average hours of instruction in a school district as compared to the average hours of instruction in the district's comparison group. Data is not currently available to calculate the change in needs pursuant to the new allowance. The allowance will shift need between school districts.

Adjustments: The bill establishes several adjustments that are to be subtracted or added to the basic funding for a school system. The adjustments will either increase or decrease formula need for school districts eligible for such adjustment.

- A local choice adjustment will reduce need for schools that have fewer than 390 students, are not sparse or very sparse and do not receive federal funds in excess of 25% of the budget. The adjustment will decrease need for such school districts by \$10.7 million in 2008-09.
- The teacher education adjustment increases need for schools having teachers with masters or doctoral degrees. The adjustment is based upon the computation of a teacher education index for each district. The index is based upon awarding points for masters and doctoral degrees and comparing the points for each district with the statewide average points. The adjustment for 2008-09 and 2009-10 equals 10% of the basic funding for a district times the difference of the teacher education index minus one. Districts with an index less than zero receive no adjustment. The adjustment percentage is raised from 10% of basic funding to 13.75% of basic funding beginning in 2010-11, so it is assumed need will increase for this adjustment beginning in 2010-11.

The adjustment increases need for affected school districts by \$24 million in 2008-09. The calculation is based upon assuming only teachers and head teachers are eligible to be counted for purposes of the adjustment. It is possible that other certificated staff will also be eligible for the adjustment depending upon how staff are categorized on the fall personnel report. The inclusion of additional positions in the computation of the adjustment may result in different districts being eligible which may increase or decrease the overall adjustment.

- The averaging adjustment will increase need for districts whose basic funding per student is less than the statewide average basic funding per formula student. Beginning in 2009-10, a district must have levied at least \$1.00 in the preceding fiscal year to be eligible for the adjustment. The adjustment equals a district's formula students times a percentage of the difference between the statewide average basic funding per adjusted formula student and the district's basic funding per adjusted formula student. The percentage used varies from 50% to 90% depending upon the amount of the prior year levy.
- In 2008-09 only, the averaging adjustment is also given to districts levying \$.96 to \$.99. The percentage used for these districts varies from 10% to 40% depending upon the prior

year levy. The averaging adjustment is also reduced to 75% of the amount calculated in 2008-09 only. The adjustment increases need by \$32.4 million in 2008-09. It is assumed the adjustment will be at least 22% higher in years thereafter.

- The student growth adjustment will increase aid for schools that are projecting an enrollment growth of more than 25 students beginning in **2009-10**. The adjustment will equal the district's basic funding per adjusted formula student times the approved growth in students minus the greater of 25 students or 1% of fall membership for the preceding school year. The adjustment also includes 50% of the students below the qualifying threshold in the calculation. A student growth adjustment correction is included beginning in 2011- 12 to reflect actual student growth. It is estimated the student growth adjustment will increase need by approximately \$11.7 million in 2009-10, assuming larger districts continue to grow at the same rate as the past three years. The increase in need for this adjustment is offset somewhat by the elimination of the student growth component in the cost growth factor.
- The learning community transportation adjustment increases formula need for schools in the first two years in a learning community beginning in **2009-10** in an amount equal to the estimated cost to provide free transportation for students transferring to other schools in the learning community pursuant to subsection (2) of Section 79-611. The bill repeals the provisions of current law allowing school districts to exceed the allowable growth rate for these expenses. Schools claiming the adjustment must submit evidence of the amount spent for such transportation and an adjustment is made in the final recalculation of aid for the school year. The amount of increased need for districts in 2009-10 is unknown.
- The new school adjustment provides a two-year increase in need for schools opening new schools beginning in **2009-10**. The first- year adjustment equals an approved district's basic funding per adjusted formula student times 20% of the approved student capacity of the new building. The second year adjustment equals the basic funding per adjusted formula student times 10% student capacity of the building. Using projected enrollment growth rates, it is estimated the new school adjustment may increase need by \$2.2 million in 2009-10.

Stabilization Component: After all other components of formula need have been determined (basic funding, allowances and adjustments), the bill provides for a stabilization factor to be calculated. The factor provides that if the formula need for a district is less than 100% of the prior year's formula need, then formula need is set at 100% of the prior year's need. If formula need is greater than 112% of the prior year's need, then formula need is set at 112% of the prior year's need. The stabilization component results in a considerable change in need for individual school districts. The net fiscal impact of the change is an estimated increase in total need of \$3 million in 2008-09.

Repeal of Needs Stabilization Factor and Lop-off: The bill repeals current provisions in the formula which stabilize need for districts levying at least \$.9975 and repeals provisions to stabilize small schools. It also repeals lop-off provisions, which capped equalization aid at the

prior year level of aid and taxes grown by 1%, plus the applicable allowable growth rate, growth in students, reductions in other receipts and unused budget authority.

Learning Communities: The calculation of the basis for the minimum levy adjustment for learning communities is changed. The bill increases the difference between the maximum common levy and the levy that will require a minimum levy adjustment to be applied from two cents to five cents. The change may result in additional state aid for districts in a learning community.

Unified Systems: The bill allows formula needs for unified systems to be computed for the individual districts in the system rather than for the system as a whole beginning in **2009-10**. The change will make a difference in terms of basic funding provided for districts in a unified system because the districts will be compared to districts smaller in size, which should result in more basic funding for districts in a unified system.

CHANGES TO RESOURCES IN THE FORMULA:

Change in Local Effort Rate and Use of 96% of Adjusted Valuation: The local effort rate in the formula is changed from the maximum levy less \$.10 ($\$1.05 - .10 = \$.95$) to the maximum levy less \$.05 ($\$1.05 - .05 = \1.00). The \$.05 increase in the local effort rate will decrease the amount of state aid provided. The bill also changes the valuation used to compute state aid resources from 100% of adjusted valuations to 96% of adjusted valuations. The change increases the amount of state aid provided to school districts. The net impact of the change in resources for districts is an estimated \$19 million decrease in state aid in 2008-09.

At a minimum, it is likely the decrease in resources for school districts will result in at least a \$7.8 million increase in property taxes levied statewide, assuming school districts that will receive less state aid in 2008-09 than in 2007-08 opt to increase their levies to maintain at least the same level of spending as the prior year. It is also possible that the entire decrease in state aid will be made up with increased property tax receipts.

Net Option Funding: The bill clarifies that net option funding continues for students residing in a learning community who were option students prior to the establishment of the learning community. The calculation of net option funding is changed to reflect the use of the statewide average basic funding per adjusted formula student to determine the amount of funding.

Allocated Income Taxes: The bill provides that allocated income taxes will be reduced by \$20 million for aid calculated in 2008-09. This reduces resources to school districts by \$20 million in 2008-09, which causes a corresponding increase in the amount of equalization aid received by school districts. This changes the distribution of aid and only impacts non-equalization districts in terms of an actual decrease in the amount of state aid received.

Aid Stabilization: The bill stabilizes the amount of aid received by schools in 2008-09 and 2009-10. Aid stabilization for a local system in 2008-09 equals the difference of the amount of state aid provided in 2007-08 less 2.5% of the need calculated for 2008-09 less the sum of equalization aid, allocated income tax funds and net option funding. The calculation is the same

for 2009-10 except 5% of the calculated need for 2009-10 is subtracted. The aid stabilization calculation increases state aid by \$5,892,990 in 2008-09 and an estimated \$2,900,000 in 2009-10.

CHANGES TO BUDGET LIMITS:

The bill eliminates exclusions to the budget lid for interlocal agreements, voluntary termination agreements and lease purchase agreements entered into before July 1, 1998. Exclusions for projected increases in formula students, operation expenses for new or expanded buildings, the first time inclusion of early childhood students in the formula, increases in allowances, and transportation for new learning community members are also eliminated.

The bill implements a new method to compute budget lids beginning in 2008-09. The bill limits general fund budgets, excluding special education and special grant funds, to the greater of: the prior year's general fund budget of expenditures times one plus the local district's allowable growth rate, or, 120% of the formula needs (less the prior year's special education budget times one plus the basic allowable growth rate).

The ability of a school board to vote to exceed the allowable growth rate is repealed. Districts are allowed to exceed the budget limitation with voter approval. The ability to use unused budget authority in future years is retained.

NDE did a model run to calculate the potential change in budget authority for school districts based on the bill. The model estimates the budget authority for school districts will increase by \$450.3 million in 2008-09. Lid exclusions for interlocal agreements, voluntary termination agreements and lease purchase agreements totaled \$128.3 million in 2007-08. These exclusions are eliminated by the bill so spending for such agreements will need to be done within the budget limitation. So, it is assumed districts will have the potential to increase spending by up to \$322 million. Increased spending by individual districts will depend upon current exclusions, which will be under the lid in the future and the ability to levy additional property taxes. Increased spending by school districts results in increased need in the formula, two years after the spending increase occurs.

The actual amount of increased spending that will occur based on the budget limitation provisions in LB 988 is unknown. The amount of increased spending pursuant to increases in allowable growth provisions in LB 1024 and LB 641 were also unknown, so it is not possible to compare current law with the changes in budget authority in LB 988.

Administration: NDE will experience a workload increase to implement the bill. The department indicates that existing staff and resources are sufficient for implementation.

LEGISLATION AMENDED INTO LB 988:

LB 1151: LB 988, as amended, also includes the provisions of LB 1151 which allows a school district to exceed its allowable growth rate by the amount of estimated increased expenditures for telecommunication services and access to and transmission of data on networks in the first two

years that a district participates in Network Nebraska, or in 2008-09, if the district participated in 2007-08.

The annual amount of the budget exception is unknown and depends upon increased telecommunications expenses of the school districts joining the Network each year. There is a distance education and telecommunications allowance in the TEEOSA formula. The allowance for the 2008-09 certification of state aid totals \$3,785,000. The allowance is 85% of the expenditures for distance education less receipts from the Universal Service Fee Fund. If the bill had been in effect for 2007-08, then no more than \$4.5 million could have been excluded from the budget lid pursuant to the bill, based upon the allowance. This estimate is assumed to be high because the allowance includes telecommunications expenses for all school districts, not just the districts that are initially participating in the Network. The allowance also does not reflect the net increase in expenditures. The amount of spending excluded from the lid by eligible school districts will increase the amount of state aid paid two years later.

LB 1017: The bill, as amended, also includes some of the provisions of LB 1017, which eliminate the exclusion from the levy limit of taxes levied by an educational service unit or school district for general obligation bonds issued to pay premium costs for insurance. Budget information for educational service units provided to the Auditor of Public Accounts shows there is currently one educational service unit indicating that it issued bonds to pay for the costs of insurance. The indebtedness associated with these bonds will be subject to the 1.5¢ levy limit for ESUs pursuant to the bill. Information from the 2007 Certificate of Taxes Levied shows there are four school districts, which have issued bonds for premium costs. The bill requires that the indebtedness associated with these bonds will be subject to the \$1.00 levy limit for schools.

LB 1079: LB 988, as amended, also includes LB 1079, which changes the calculation of general fund operating expenditures in the state aid formula beginning in 2009-10. The bill provides that general fund operating expenditures will not include any legal expenses in excess of fifteen-hundredths of 1% of the formula need for the school year in which the expenses occurred.

The bill will have a fiscal impact for school districts in terms of decreased state aid, two years later, if legal expenses in any school year exceed fifteen-hundredths of 1% of formula need. The State Department of Education indicates that 218 school districts expended \$6.4 million on legal fees in 2006-07. The application of the .0015 factor to total formula needs for these districts, calculates to approximately \$3.5 of legal expenses that could be included in general fund operating expenses. The remaining \$2.9 of legal expenses would be excluded from general fund operating expenses. The calculation could be slightly skewed because the estimate is computed using statewide numbers rather than on a district specific basis.

LB 976 & LB977: The bill, as amended, also includes provisions of LB 977 pertaining to freeholding and LB 977 pertaining to unified systems. The bill adds a new set of criteria for freeholder petitions to have land set off from a school district and attached to a contiguous district. The bill provides that a petition may be filed to have land set off from any school district if the combined levies for the school district will be greater than \$1.20 or the maximum levy authorized by a vote. An exception is provided for levies set in 2007, if a school district files a binding resolution stating that combined levies for 2008, excluding voter approved levies

for bonded indebtedness, will not be greater than \$1.20 or the maximum voter authorized levy. The bill also changes the approval and effective dates for petitions.

The changes may result in the transfer of land between school districts. It is not possible to project a fiscal impact because land transfers are not known. The transfer of land between districts will change the valuation of districts involved in transfers, which will impact the property tax base of affected districts. Changes in the property tax base of affected districts will impact the revenues of districts from property taxes and state aid.

LB 988 also changes current law relating to the dissolution of unified school systems. The bill provides that schools may not withdraw from a unified system or dissolve a unified system unless a participating school district merges with at least one other district or the unified system will continue with at least one other participating district. The bill charges the court with jurisdiction to determine matters relating to the rights and liabilities of participating school districts including allocations of staff, property and revenue and repayments of incentive aid. The State Department of Education (NDE) is to implement and enforce terms of any declaratory judgment by a court. The bill also prohibits the creation of unified school systems after the effective date of the bill.

There are currently four unified school systems in the state, which have twelve participating districts. The South Central Unified System has four participating districts, the Nebraska Unified and Hitchcock County Unified Systems each have three participating districts and the Bruning-Davenport Unified System consists of two school districts. The bill has no definite fiscal impact for districts participating in unified school systems. It is possible the restrictions on the dissolution or withdrawal of school districts from unified school systems or future declaratory judgments by a court as required by the bill may have a fiscal impact for school districts participating in these systems.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 1056	Erdman	First class city merger	3/13/08; 46-0	7/18/08

LB 1056 the First Class City Merger Act, to authorize the merger of two or more first class cities which are contiguous and adjacent and located within the same. This bill is the successor to LB 517, which was introduced by Sen. Erdman in the 2007 Session. That bill was indefinitely postponed on February 20, 2007.

LB 1056 (2008) represents an attempt to build upon the experience of LB 517 and address the concerns raised by members of the Urban Affairs Committee. The bill is concerned exclusively with providing the authority for a full merger of two first class cities (whereby two cities are fully and permanently united so as to create one city. Merger is only possible if the two cities are first class cities, if they share a common border (are contiguous and adjacent), and are both located in the same county.

Each city council in the two cities would adopt a joint, concurrent resolution of intent to pursue a merger plan. If a resolution is adopted, the cities involved may hold an advisory vote of the residents of each city to determine if merger efforts should proceed. The election may be held at a general or special election but must be held on the same day in both cities. The ultimate vote is not binding on the city councils.

After the resolution is adopted by both city councils, they must begin work on adopting a merger plan. The plan must include a number of elements including (i) the name of the new city, (ii) the manner of allocating and financing the costs of the plan, (iii) the nature and value of property owned by both cities, (iv) the indebtedness of both cities, bonded and otherwise, and the plan for repayment after the merger, (v) the proposed form of organization and government of the new city, (vi) the number of wards and representatives from each ward, (vii) the redistricting of the new merger city, (viii) the pay and perquisites of the officers of the new city, (ix) the treatment of related city organizations (such as housing authorities, airport authorities, etc.), and (x) any other terms the parties need to agree upon. Each council is authorized to appoint an advisory committee to assist the council in preparing the merger plan.

After the plan has been prepared, the city council of each city must hold a public hearing on the plan in their respective cities after notice is given of the hearing and a summary of the plan has been published.

After the hearings, the city council of each city must adopt the joint merger plan by a majority vote of the city council of each city (a majority of the elected members). If the councils both adopt the plan, the issue of merger is submitted for approval to the voters of each city for consideration at a primary or special election (not a general election) held on the same day in each city. The special election must be held not less than 180 days prior to the next statewide general election.

Important Note: The boundaries of school districts and other election districts for non-city offices would not be changed by the merger and continue as before the merger until changed as provided by law.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 1067	Aguiar	Allocating election costs	4/15/08; 45-0	7/18/08

LB 1067 changes provisions regarding reimbursements by political subdivisions for the costs of conducting their elections.

Currently, the reimbursement is determined by a system that prorates costs based on the amount of ballot spaced used. LB 1067 would establish the minimum amount billed at \$50.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 1147	Retire. Com.	Retirement systems	4/17/08; 45-0	4/22/08

LB1147 represents the omnibus technical and substantive cleanup bill for all five state public retirement plans and the Omaha Public School Employees Retirement Plan. The bill amends the three defined benefit plans, the Judges, School Employees, and the State Patrol retirement systems, and makes technical changes to the calculation of the 75% purchasing power benefit for the respective systems.

The bill also revises the service annuity benefit payable upon disability retirement or retirement with 35 years of service for members of the Omaha School Employees Retirement System (OSERS) who were hired before July 19, 1996. An actuarial study estimates the annual cost at \$136,869 General Funds. This amount is contained in the appropriation bill to LB 1147.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 1153	Raikes	Omnibus education bill	4/16/08; 46-0	4/18/08

Sec. 1. *Certificate of Attendance.* The provisions of LB 990, as modified by technical changes, were merged into LB 1153. The provisions would allow a parent or guardian to request that a school district issue a certificate of attendance to a special education student who is at least 17 and who has not completed his or her individualized education plan (IEP). The district would allow the student receiving the certificate to participate in the high school graduation ceremony with students receiving high school diplomas. A student would only be allowed to receive one certificate and participate in one ceremony. The receipt of a certificate of attendance would not affect a school district's obligation to continue providing special education services to the student.

Sec. 2. *Early Childhood Programs.* The provisions of LB 650 were merged into LB 1153 and provide that in 2008-09, early childhood education programs established by school districts or ESUs that are not receiving a grant through the early childhood education grant program may serve children who meet the age requirements to attend kindergarten, but are not of mandatory attendance age.

Sec. 3. *Early Childhood Endowment.* The provisions of LB 1125 were amended into LB 1153 and pertain to the early childhood endowment and education grant program for at-risk children, birth to age three. The provisions clarify that only earnings from the private endowment for early childhood education are to be deposited in the Early Childhood Education Cash Fund and also require the earnings to be deposited at least annually rather than quarterly. The eligibility of educational service units to receive early childhood grants is eliminated. The bill provides for the use of up to 10%, rather than 5%, of funds in the Early Childhood Grant Program for evaluation and technical assistance.

Sec. 4. *Early Childhood Endowment.* (See Section 3)

Sec. 5. *Early Childhood Endowment.* (See Section 3)

Sec. 6. *Early Childhood Endowment.* Eliminates a committee requested at the discretion of the Governor to represent an at-risk urban area. The law would be amended to allow the Governor to appoint, at his or her discretion, a member of the board of trustees who resides or works in such an area. It would allow the Governor to appoint a member of the board of trustees who “works” in a county that does not have a city of metropolitan or primary class and that meets defined poverty requirements.

Sec. 7. *Needs Calculation.* LB 1153, as amended, contains a revision to Section 13 of LB 988 (2008). This particular section of LB 988 relates to the needs calculation and the needs stabilization provision. The change contained in LB 1153 is meant to be technical in nature.

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 1154	Raikes	Learning community/ESUs	4/8/08; 30-15	7/18/08

LB 1154 primarily pertains to learning communities. However, as amended and passed, the legislation also pertains to ESUs, option enrollment, and a change to LB 988 (2008).

Sec. 1. *Learning Community.* LB 1154 amends the Nebraska Budget Act by requiring learning communities to file their budgets with their member school districts on or before September 1 and by removing the requirement for such school districts to file their budgets with the learning community.

Sec. 2. *ESUs.* LB 1154 includes the provisions of LB 1081, which provide for an ESU to exceed its budget limitation by an amount that will allow it to spend up to 110% of the needs calculated for the ESU under the distribution of aid for core services and technology infrastructure. Using data for the current year, it is projected the bill will allow over half of the seventeen ESUs to exceed their budget lid in order to spend up to 110% of needs.

Sec. 3. *Learning Community.* LB 1154 changes the composition of a learning community coordinating council and would add a nonvoting ex officio member from each school district that would not otherwise have a council member residing within the district boundaries. The members are appointed by the school board to serve two-year terms and are not allowed to be school administrators employed by the district. Such members of the council would not be paid, nor would they be on the achievement sub-councils. Clarification is also provided to state that the appointed members take office at the same time as the elected members, except that appointments to fill vacancies take office immediately upon taking the oath of office.

- Sec. 4. *Learning Community.* LB 1154 provides clarification that elective offices do not include the appointed positions on a learning community coordinating council for the purpose of the prohibition on dual office holding.
- Sec. 5. *ESUs.* LB 1154 eliminates the levy authority of any ESU with only one member school district beginning with fiscal year 2013-14. (*See also Section 14*)
- Sec. 6. *Learning Community.* LB 1154 amends the compulsory attendance law to require learning community member school districts to report truancy information to the coordinating council by September 1 of each year. The truancy information would include:
- a. Reports of truancy violations made to the attendance officer;
 - b. The results of all investigations conducted, including the attendance record that is the subject of the investigation and a list of services rendered;
 - c. The district's policy on excessive absenteeism; and
 - d. Records of all notices served and reports filed and the district's policy on habitual truancy.
- Sec. 7. *Option Enrollment.* Applicable to all school districts, LB 1154 includes the provisions of LB 1021 and adds two new categories of eligibility for students to be qualified for the option enrollment program. A student may be enrolled in the option program if enrollment allows a student to continue current enrollment in a school district, or if enrollment allows a student to attend a district the student was previously attending as a resident student.
- Sec. 8. *Learning Community.* LB 1154 changes the requirements for transportation of students in a learning community. Free transportation is to be provided to a student contributing to the socioeconomic diversity of enrollment who is attending another school in the learning community, only if the student lives more than one mile from the school to which he or she transfers. The change may result in a minimal decrease in transportation expenses for affected school districts.
- Sec. 9. *Learning Community.* LB 1154 redefines focus programs, focus schools, magnet schools and pathways. It appears the bill clarifies that school districts may establish one or more focus schools or programs or magnet schools.
- Sec. 10. *Spending Lid Exception.* This particular section of LB 1154 amends Section 46 of LB 988 (2008) and allows a school district to:

- Exceed its applicable allowable growth rate for expenditures to pay another school district for the transfer of land from such other school district to the district seeking to exceed its applicable allowable growth rate; and
- exceed the allowable growth rate by the amount of estimated increased expenditures above that of the second preceding school year for telecommunication services and access to and transmission of data on networks in the first two years that a district participates in Network Nebraska, or in 2008-09, if the district participated in 2007-08.

Note: The annual amount of the budget exception is unknown and depends upon increased telecommunications expenses of the school districts joining the Network each year. There is a distance education and telecommunications allowance in the TEEOSA formula. The allowance for the 2008-09 certification of state aid totals \$3,785,000. The allowance is 85% of the expenditures for distance education less receipts from the Universal Service Fee Fund.

- Sec. 11. *Learning Community.* LB 1154 changes the allocation of property tax receipts from the common levy to school districts in a learning community during the first three years the learning community levies a common levy. Current law requires that property tax receipts be divided among school districts in the learning community proportionally based on a school district's need in the state aid formula, less state aid and other actual receipts. The bill provides for a proportional distribution based on the greater of: the aforementioned method of allocating resources; or, the state aid received in the year prior to the first year a common levy is imposed, plus the yield from the district's general fund levy times the assessed valuation for the school year of distribution, minus state aid for such school year.
- Sec. 12. *ESUs.* The language in existing law requiring ESUs 18 and 19 to continue as single district ESUs is deleted.
- Sec. 13. *ESUs.* LB 1154 amends the law outlining the criteria used by the State Board of Education to grant or deny any petition to change ESU boundaries. The bill provides that, for petitions that change ESU boundaries by transferring a learning community member district from one ESU to another ESU with existing territory in the learning community, the outlined criteria would be met if the affected ESUs will each have at least two member school districts after such transfer.
- Sec. 14. *ESUs.* LB 1154 contains the provisions of LB 605, which provides that beginning in 2013-14, only ESUs having two or more member school districts may levy a property tax and receive state aid for core services and technology infrastructure. There are currently two ESUs, #18 in Lincoln and #19 in Omaha, which have only one member school district.

It is unknown how the change will impact individual ESUs. It is assumed there will be a reconfiguration of school districts belonging to ESUs in Omaha and Lincoln and the

surrounding areas in order to retain the resource base for the ESUs. The two ESUs directly impacted by the bill levied a total of \$5 million of property taxes in 2007-08. If the ESUs reorganize with different member districts, there likely will be a shift in resources and expenditures between ESUs of an unknown amount depending upon member school districts.

Sec. 15. *Learning Community/ESUs.* LB 1154 includes portions of LB 1083, which changes the allocation of state aid for ESUs and provides for learning communities to receive a portion of the ESU aid distribution. Learning communities will be eligible for a student allocation in the ESU distribution formula. The number of adjusted students used in the formula for ESUs will be changed to include 50% of the membership of school districts that are in a learning community rather than 100%. The other 50% of the membership will be used to calculate a student allocation for a learning community. The learning community need computation will not include a distance education and telecommunications allowance, base allocation, or allocation for satellite offices, as is the case for ESUs. The 95% hold-harmless does not apply to ESUs that have districts that are members of a learning community.

Sec. 16. *Learning Community.* LB 1154 amends existing law to require at least 3 participating school districts to form a learning community. In addition, either:

1. All school districts in one or more counties are participating and either:
 - a. The districts are all in the sparse or very sparse cost grouping; or
 - b. The districts have a minimum combined total of at least 2,000 students; or
2. The districts have a minimum combined total of 10,000 students.

Currently, all districts in one or more counties must participate and there must be at least 2,000 students, unless districts are in the sparse or very sparse cost grouping.

Sec. 17. *Learning Community.* LB 1154 requires the Secretary of State to schedule and host the first three monthly meetings of a newly elected learning community coordinating council beginning in January following the election of such council. The bill does not specify which entity shall bear the cost of the first three monthly meetings.

Sec. 18. *Learning Community.* LB 1154 removes the requirement for a learning community coordinating council to pay for mediation services.

Sec. 19. *Learning Community.* LB 1154 establishes a new advisory committee to the learning community coordinating council consisting of the superintendent of each member district or a designated representative. The advisory committee is required to meet at least four times per year.

- Sec. 20. *Learning Community.* LB 1154 would amend existing law to allow boundary changes for districts that will be required to be in a learning community prior to the establishment of the learning community if there is agreement between the school boards of all affected districts.
- Sec. 21. *Learning Community.* LB 1154 would amend existing law to give a preference to siblings of students who will be enrolled as continuing students in the school building or program for the first school year for which enrollment is sought. The law would also be amended to prevent students who complete the grades offered at a focus program, focus school, or magnet school from being considered continuing students in the school district responsible for the program or school. Such students would be continuing students for the next grade level in a pathway. The sibling preference concept was contained in LB 1005.
- Sec. 22. *Learning Community.* LB 1154 would amend existing law by narrowing the funding for capital projects to elementary learning centers and focus schools and focus programs. Projects that would otherwise attract a more economically and culturally diverse student body would not be eligible for funding from the learning community.
- Sec. 23. *Learning Community.* LB 1154 would clarify existing law by removing language regarding “regions” from an early version of the concept of elementary learning centers and by specifying that programs may be offered in school buildings.
- Sec. 24. *Learning Community.* LB 1154 provides that learning communities may use state funds distributed under current law for up to six social workers through the elementary learning centers.
- Sec. 25. *Learning Community.* LB 1154 clarifies that the voting council members make up the achievement sub-councils.
- Sec. 26. *Learning Community.* LB 1154 clarifies existing law so that educational opportunities provided in the diversity plan would be provided pursuant to the open enrollment provisions and the focus school, focus program, magnet school, and pathway provisions. A deadline for the initial plan of December 31 of the first year of the learning community would be added.
- Sec. 27. *Learning Community.* LB 1154 contains the provisions of LB 1158 in sections 27 and 28, which amend sections of law governing the Job Training Cash Fund in the Department of Economic Development. These sections provide that a business applying for a job training grant may partner with a learning community coordinating council or school district and at least one private, nonprofit organization whose purpose is to provide basic job and life skills training to individuals in high poverty areas. Grants meeting this criterion would also be subject to different per- job expenditure limitations. The department could approve grants up to \$10,000 per job created if the proposed wage levels do not exceed \$30,000 and up to \$15,000 per job if the proposed wage levels exceed \$30,000. Actual expenditures from the Job Training

Cash Fund will depend upon the number of qualifying grant applications that are received and approved by the department. It is estimated that the existing balance of the Job Training Cash Fund will be sufficient to meet any additional demands on the fund that may occur as a result of LB 1154.

Sec. 28. *Learning Community. (See Section 27)*

<i>Bill</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Passed</i>	<i>Operative</i>
LB 1157	Raikes	Student assessment	4/7/08; 33-15	7/18/08

LB 1157 directs the Governor to appoint a technical advisory committee of nationally recognized assessment experts to advise him, the Legislature, the State Board of Education and the state Department of Education on the development of statewide assessment instruments and a statewide assessment plan. The committee would also include one teacher and one school administrator appointed by the Governor.

The plan for the statewide assessment and reporting system will be reported to the Governor, the chairperson of the Legislature’s Education Committee, the Clerk of the Legislature and the state Department of Education. The state board will select grade levels for assessment and reporting according to the assessment instruments. Annual statewide assessments would be required for:

- *reading* beginning in the 2009-10 school year, with assessment instruments in grades 3-8 and one high school grade;
- *mathematics* beginning in the 2010-11 school year,^{††} with assessment instruments in grades 3-8 and one high school grade; and
- *science* beginning in the 2011-12 school year, with assessment instruments in at least one elementary grade, one middle school or junior high grade and one high school grade.
- A statewide assessment for *writing*, which already exists.

^{††} If no statewide assessment of mathematics is administered in school year 2009-10, school districts would report mathematics assessment results in the same manner as such information was reported in school year 2008-09.

The bill allows the state board to select additional grade levels and additional subject areas for statewide assessment to comply with federal requirements. The state board is prohibited from requiring school districts to administer assessments or assessment instruments other than as prescribed by law.

The department may determine appropriate accommodations for the assessment of students with disabilities or any student receiving special education programs and services. Alternate

academic achievement standards in reading, mathematics, and science and alternate assessment instruments aligned with the standards may be among the accommodations for students with severe cognitive disabilities.

The bill requires the state board to appoint committees of teachers from each appropriate subject area and administrators to assist in the development of statewide assessment instruments required by the bill.

References to locally adopted standards, local assessment instruments and generic grade levels are eliminated from the law.

II. Interim Studies

<i>Resolution No.</i>	<i>Subject</i>
292	(Adams) Interim study to review services available for at-risk children age birth to five years
293	(Adams) Interim study to examine ways to develop interest in science and math disciplines
294	(Adams) Interim study to examine alternative salary compensation and funding systems for teachers
295	(Adams) Interim study to examine regional models of delivering education in rural communities
304	(Pahls) Interim study to examine issues relating to early retirement by public school teachers
308	(Nantkes) Interim study to examine costs related to the creation of the learning community
347	(Raikes) Interim study to examine issues under the jurisdiction of the Education Committee
359	(Raikes) Interim study to review changes to Nebraska's statewide assessment statutes and the Quality Education Accountability Act and to evaluate models for implementing statewide assessment
369	(Schimek) Interim study to examine policy changes in order to provide guidance and oversight of Nebraska's home schools
371	(Kopplin) Interim study to determine current energy usage by schools and school districts and to examine effective energy efficiency measures
388	(Education Committee) Interim study to review the constitutional references to and the statutory powers and duties of the State Board of Education and the Commissioner of Education

III. Section-by-Section Analysis: LB 988 (2008)

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 1	§ 44-4317	Bonds Issued to Pay Insurance Costs

Provisions of LB 1017 were amended into LB 988. Section 1 of LB 988 changes current law to eliminate the exclusion from the levy limit of taxes used by a public agency or political subdivision for general obligation bonds issued to pay premium costs for insurance.

Property taxes levied by an ESU or school district on or after April 3, 2008 (the effective date of the bill) for the payment of the principal of, premium of, or interest on a general obligation bond, the payment of insurance premium costs, and the payment of all costs and expenses associated with membership in a risk management pool will be subject to the applicable levy limit.

Property taxes levied by an ESU or school district for the payment of the principal of, premium of, or interest on a general obligation bond issued prior to April 3, 2008 would be excluded from the applicable levy limit.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 2	§ 77-3442	Levy Limitations

Section 77-3442 is obviously an important section of law for schools. This section contains the various levy limitations and exceptions to the levy limitations for each political subdivision. LB 988 makes principally two changes to this section of law.

First, LB 988 would allow a learning community to levy a maximum levy for the general fund budgets of member school districts of 95¢ per \$100 of taxable valuation of property subject to the levy.

Second, LB 988 would incorporate provisions from LB 977, relating to freeholding, and would allow transfers of land out of any class of school district to a contiguous district if the original district has approved a budget that will cause the combined levies to exceed the greater of:

- a. \$1.20; or
- b. The maximum levy authorized by a vote.

LB 988 adds clarification that all levies, except bonded indebtedness approved by the voters, are included in the combined levies.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 3	§ 79-233	Option Enrollment

This section of law relates to the Enrollment Option program. LB 988 would clarify that option students, who reside in a learning community and who have chosen to attend an option school district in the learning community prior to the establishment of the learning community, continue to be classified as option students.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 4	§ 79-458	Freeholding

LB 988 incorporates the provisions of LB 977 and adds a new set of criteria to allow land to be transferred to another school district in a process commonly referred to as “freeholding.” Prior law provided that land in a Class II or III school district may be moved out of the district to a contiguous school district if:

- a. The district has less than 60 students in grades 9-12 for 2 years;
- b. The district has voted to exceed the maximum levy;
- c. The high school is within 15 miles of another high school; and
- d. Neither district is a member of a learning community.

LB 988 allows transfers of land out of any class of school district to a contiguous district if the original district has approved a budget that will cause the combined levies to exceed the greater of:

- a. \$1.20; or
- b. The maximum levy authorized by a vote.

The deadline for approving a petition to transfer land would be moved up from November 1 to July 15. The effective date for the transfer would also be moved up from January 1 to August 15. Language is also included in the amendment to clarify that the transfers are effective for levies set in the year in which the transfer occurs. Appeals would need to be filed on or before August 1, instead of within 20 days of the action of the board or of November 1 if the board fails to take action. Despite the filing of an appeal, the transfer would occur on August 15 if the board either approved the transfer or failed to act and the court does not take action to prevent the transfer.

Clarification would be added that the freeholding transfers do not detach obligations for voter-approved bonds from the any tract of land. Clarifying language would also be added to the current provisions.

There would be an exception to the new set of criteria for levies set in 2007 for the 2007-08 school fiscal year if the school district filed a binding resolution prior to May 9, 2008 stating that the combined levies for 2008, excluding voter approved bonds, would not exceed the greater of \$1.20 or the maximum levy authorized by the voters. This exception was not contained in the original bill.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 5	§ 79-4,108	Unified Systems

Under prior law, once an application for the creation of a unified system has been granted, NDE recognizes the unified system as a single Class II or III district for state aid, budgeting, accreditation, enrollment of students, state programs, and reporting.

Reporting: LB 988 stipulates that NDE must require reporting from each individual district belong to the unified system as necessary to calculate formula need separately for each participating district beginning with the calculation of state aid for school fiscal year 2009-10.

Withdrawal/Dissolution: The withdrawal of a participating district or dissolution of a unified system would require each participating district to either be merged with at least one other district or continue participation in the unified system with at least one other district. In the event of a withdrawal or dissolution, the rights and liabilities of the participating district would be determined through an action for declaratory judgment pursuant to the Uniform Declaratory Judgments Act. Such action could be brought by the school board of any participating school district. The court would have jurisdiction to determine all matters relating to the rights and liabilities of participating districts, including the allocation of:

- a. Certificated staff;
- b. Real and personal property in the name of the unified system;
- c. Local, state, and federal revenue, including state aid to be paid for the year following the withdrawal or dissolution; and
- d. Liability for the repayment of incentive aid, which would be subtracted from the state aid to be paid for the year following the withdrawal or dissolution.

NDE would implement and enforce all terms of such decree of declaratory judgment.

New unifications may not be created after April 3, 2008. The Committee for the Reorganization of School Districts could approve the addition of new school districts to an existing unified system and the continuation of an existing unified system with two or more school districts.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 6	§ 79-4,111	Unified Systems

This section of law is amended for the sake of harmonization. The section pertained to determination of budget authority for Class I districts that are not participating in a unified system.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 7	§ 79-8,137	Attracting Excellence to Teaching Program

Editorial change; no substantive impact.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 8	§ 79-1001	Change TEEOSA Citation

This section of law provides the official citation for the Nebraska Tax Equity and Educational Opportunities Support Act (TEEOSA) within Chapter 79 of the Nebraska Revised Statutes. The change made under LB 988 recognizes the addition of new sections of law created by the legislation.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 9	§ 79-1003	Definitions under TEEOSA

This existing section of law provides a number of definitions used in the implementation of the TEEOSA, the school finance formula. The changes under LB 988 harmonize the definitions section with the substantive and technical changes made throughout the legislation.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 10	§ 79-1003.01	Summer School Allowance

In 2007 the Legislature passed LB 641 and created a summer school factor. The factor was based on the number of summer school student units in each district. A unit was defined as one student enrolled in summer school in a school district, whether or not the student is in the membership of the school district, for (1) at least 3 hours but fewer than 6 hours per day and (2) at least 12 days but fewer than 24 days.

LB 988 allows the summer school factor to remain in place for the computation of state aid for 2008-09 only. It would then be replaced by a new summer school allowance. Beginning in 2009-10, NDE would calculate the summer school allowance for each district equal to 2.5% of the summer school student units for the district multiplied by 85% of the statewide average general fund operating expenditures per formula student.

Summer school student units would be calculated for each student enrolled in summer school in a district who attends summer school for at least 12 days, whether or not the student is in the membership of the district. The initial number of units for each student would equal the sum of the ratios, each rounded down to the nearest whole number, of the number of days for which the student attended summer school classes in the district for at least 3 hours and less than 6 hours per day divided by 12 days and of two times the number of days for which the student attended summer school classes in the district for 6 or more hours per day divided by 12 days.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 11	§ 79-1005.01	Allocated Income Tax

LB 988 provides that allocated income taxes will be reduced by \$20 million for aid calculated in 2008-09. This reduces resources to school districts by \$20 million in 2008-09, which causes a corresponding increase in the amount of equalization aid received by school districts. This changes the distribution of aid and only impacts non-equalization districts in terms of an actual decrease in the amount of state aid received.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 12	§ 79-1007.02	Old Calculation of Formula Need; Cost Groupings

This section of law represents the existing system to calculate formula need for each district and also provides for the three cost groupings (standard, sparse, very sparse). The intent of LB 988 is

to limit the applicability of this section to years *prior* to 2008-09, meaning that for 2008-09 and thereafter a new system to calculate needs would be implemented. Cost groupings would no longer be used under the formula created under LB 988.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 13	New Language	New Calculation of Needs; Needs Stabilization

LB 988 creates a new section for the calculation of formula need and also provides a needs stabilization provision. The needs calculation would evolve from 2008-09 to 2013-14 and thereafter in a four-stage process as follows (the highlighted items are additions in the four-stage process):

For school fiscal year 2008-09, Formula Need equals X – Y:

X.....BASIC FUNDING	Y.....LEP allowance correction
Poverty allowance	Poverty allowance correction
LEP allowance	Local choice adjustment
Elementary class size allowance	
Focus school and program allowance	
Summer school allowance	
Special receipts allowance	
Transportation allowance	
Elementary site allowance	
Distance ed./telecom. allowance	
Averaging adjustment	
Teacher education adjustment	

For school fiscal years 2009-10 and 2010-11, Formula Need equals X – Y:

X.....BASIC FUNDING	Y.....LEP allowance correction
Poverty allowance	Poverty allowance correction
LEP allowance	Local choice adjustment
Elementary class size allowance	
Focus school and program allowance	
Summer school allowance	
Special receipts allowance	
Transportation allowance	
Elementary site allowance	
Distance ed./telecom. allowance	
Averaging adjustment	
Teacher education adjustment	
Instructional time allowance	
New learning comm. transport. adjustment	
Student growth adjustment	
New school adjustment	

For school fiscal years 2011-12 and 2012-13, Formula Need equals X – Y:

X.....BASIC FUNDING	Y.....LEP allowance correction
Poverty allowance	Poverty allowance correction
LEP allowance	Local choice adjustment
Elementary class size allowance	Negative student growth adjustment correction
Focus school and program allowance	
Summer school allowance	
Special receipts allowance	
Transportation allowance	
Elementary site allowance	
Distance ed./telecom. allowance	
Averaging adjustment	
Teacher education adjustment	
Instructional time allowance	
New learning comm. transport. adjustment	
Student growth adjustment	
New school adjustment	
Positive student growth adjust. correction	

For school fiscal year 2013-14 and thereafter, Formula Need equals X – Y:

X.....BASIC FUNDING	Y.....LEP allowance correction
Poverty allowance	Poverty allowance correction
LEP allowance	Local choice adjustment
Focus school and program allowance	Negative student growth adjustment correction
Summer school allowance	
Special receipts allowance	
Transportation allowance	
Elementary site allowance	
Distance ed./telecom. allowance	
Averaging adjustment	
Teacher education adjustment	
Instructional time allowance	
New learning com. transport. adjustment	
Student growth adjustment	
New school adjustment	
Positive student growth adjust. correction	

NOTE: For school fiscal year 2013-14 and thereafter, the elementary class size allowance is removed.

Needs Stabilization Provision: A new provision would be added to the calculation of need that would require formula need that is less than 100% of the prior year formula need to be increased to such level AND that would require formula need that is more than 112% of the prior year formula need to be decreased to such level, except that the formula need for districts receiving a student growth adjustment would not be adjusted downward. The formula need would also not

be adjusted downward for districts when formula students grew from 2007-08 to 2008-09 by the greater of 25 students or 1% of the 2007-008 formula students.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 14	New Language	Transportation Allowance

A new provision would require NDE to calculate a transportation allowance for each district equal to the *LESSER OF*:

<p>Each local system’s general fund expenditures for regular route transportation <u>and</u></p> <p>In lieu of transportation expenditures two years in arrears, <u>but</u></p> <p>Not including special education transportation expenditures or other expenditures previously excluded from general fund operating expenditures.</p>	<p><u>OR</u></p>	<p>The number of miles traveled two years in arrears by vehicles owned, leased, or contracted by the district or the districts in the local system for the purpose of regular route transportation <i>multiplied by 400%</i> of the mileage rate established by DAS as of January 1 of the most recently available complete data year <u>added to</u></p> <p>In lieu of transportation expenditures from the same data year.</p>
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<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 15	New Language	Special Receipts Allowance

LB 988 requires NDE to calculate a special receipts allowance for each district equal to the amount of special education, state ward, and accelerated or differentiated curriculum program receipts included in local system formula resources under subdivisions (7), (8), (16), and (17) of section 79-1018.01 attributable to the school district.

The applicable subsections of Section 79-1018.01 (as proposed to be amended by LB 988) are:

- (7) Special education receipts;
- (8) Special education receipts and non-special education receipts from the state for wards of the court and wards of the state;
- (16) Receipts under the federal Medicare Catastrophic Coverage Act of 1988, as such act existed on May 8, 2001, but only to the extent of the amount the local system would have otherwise received under the Special Education Act; and
- (17) Receipts for accelerated or differentiated curriculum programs.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 16	New Language	Distance Education/Telecommunications Allowance

LB 988 requires NDE to calculate a distance education and telecommunications allowance for each school district equal to 85% of the difference of the costs for:

- (a) telecommunications services,
- (b) access to data transmission networks that transmit data to and from the school district, and
- (c) the transmission of data on such networks paid by the school districts in the local system as reported on the AFR for the most recently available complete data year minus the receipts from the federal Universal Service Fund (section 254 of the Telecommunications Act of 1996, 47 U.S.C. 254), as such section existed on January 1, 2008, for districts in the local system as reported on the AFR for the most recently available complete data year.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 17	New Language	Elementary Site Allowance

LB 988 provides for a elementary site allowance in two stages: (1) one for the 2008-09 school fiscal year; and (2) another for 2009-10 and thereafter.

1. *For 2008-09*, NDE will calculate an elementary site allowance for any district in which:
 - (a) the district has more than one elementary attendance site,
 - (b) at least one of the elementary attendance sites does not offer any other grades,
 - (c) the square miles in the district divided by the number of elementary attendance sites in the district equals 100 square miles or more per elementary attendance site, and
 - (d) the fall membership in elementary grades in the district divided by the number of elementary grades then divided again by the number of elementary attendance sites equals 15 or fewer students per grade per elementary attendance site.

Qualifying elementary attendance sites for such districts must only offer elementary grades and must have an average of 15 or fewer students per grade in the fall membership.

2. *For 2009-10 and thereafter*, NDE will calculate an elementary site allowance for any district that has at least one qualifying elementary attendance site and that submits the information required for the calculation on a form prescribed by NDE by October 15 of the school fiscal year preceding the school fiscal year for which aid is being calculated.

A qualifying elementary attendance site would be an elementary attendance site, in a district with multiple elementary attendance sites, that does not have another elementary attendance site within 7 miles in the same school district or which is the only public elementary attendance site located in an incorporated city or village.

Amount of Allowance: The elementary site allowance would equal the sum of the elementary site allowances for each qualifying elementary attendance site in the district. The allowance for each qualifying elementary attendance site would equal 500% of the statewide average general fund operating expenditures per formula student multiplied by the result of rounding the ratio of the fall membership attributed to the elementary attendance site divided by 8 up to the next whole number if the result was not a whole number, except that if the resulting whole number is greater than the number of elementary grades offered in the elementary attendance site, the whole number would be reduced to equal the number of grades offered in the elementary attendance site.

Stipulations and Definitions:

- (a) Each district must determine which grades are considered elementary grades, except that:
 - (i) all grades designated as elementary grades must be offered in each elementary attendance site in the district, and
 - (ii) elementary grades must not include grades 9-12;
- (b) An elementary attendance site is an attendance site in which elementary grades are offered;
- (c) The primary elementary site is the elementary attendance site to which the most formula students are attributed in the district and may not be a qualifying elementary attendance site; and
- (d) Fall membership means the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 18	New Language	Basic Funding

Beginning with 2008-09 and thereafter, LB 988 requires NDE to calculate “basic funding” for each district as follows:

A comparison group would be established for each district consisting of:

- (i) the 5 *larger* districts that are closest in *size* to the district, measured by *formula students*, and
- (ii) the 5 *smaller* districts that are closest in *size* to the district, measured by *formula students*.

NOTES: (a) If there are not 5 districts that are larger than the district for which basic funding is being calculated or if there are not 5 districts that are smaller than the district, the comparison group would consist of only as many districts as fit the criteria.

- (b) If more than one district has exactly the same number of formula students as the largest or smallest district in the comparison group, all of the districts with exactly the same number of formula students as the largest or smallest districts in the comparison group would be included in the comparison group.

- (c) If one or more districts have exactly the same number of formula students as the district for which basic funding is being calculated, all such districts would be included in the comparison group in addition to the 5 larger districts and the 5 smaller districts.

FINAL COMPUTATION:

1. *900 or more*: For districts with 900 or more formula students, basic funding would equal the *adjusted formula students multiplied* by the *average* of the *adjusted general fund operating expenditures per formula student* for each district in the comparison group, excluding both the district with the *highest* adjusted general fund operating expenditures per adjusted formula student and the *lowest* adjusted general fund operating expenditures per formula student of the districts in the comparison group.
2. *Less than 900*: For districts with fewer than 900 formula students, basic funding would equal the *product* of the *average* of the *adjusted general fund operating expenditures* for each district in the comparison group, excluding both the district with the *highest* adjusted general fund operating expenditures and the district with the *lowest* adjusted general fund operating expenditures of the districts in the comparison group.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 19	New Language	Local Choice Adjustment

In 2008-09 and thereafter, LB 988 requires NDE to calculate a “local choice adjustment” for each district that:

- (i) Has fewer than 390 *formula students*;
- (ii) Is not in a *sparse* local system or a *very sparse* local system; and
- (iii) Did not receive federal funds in excess of 25% of its general fund budget of expenditures in the most recently available complete data year or in either of the *two* school fiscal years preceding the most recently available complete data year.

FINAL COMPUTATION:

The local choice adjustment would equal 50% of the *difference* between the *basic funding per formula student* for the district and the basic funding per formula student for the district that has the *closest to 390 formula students multiplied* by the formula students for the district for which the local choice adjustment is being calculated, *except* the adjustment may not equal zero if the basic funding per formula student for the district for which the adjustment is being calculated is *less* than the basic funding per formula student for the district that has the closest to 390 formula students.

NOTES: (a) If *more than one* district has the closest to 390 formula students, the basic funding representing the district that has the closest to 390 formula students will equal the average of the basic funding per formula student for each such district.

- (b) The *closest to 390 formula students* would be measured using the absolute value of the difference of 390 students *minus* the district formula students with the difference rounded to the nearest whole number.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 20	New Language	Averaging Adjustment

For 2008-09 and thereafter, LB 988 requires NDE to calculate an “averaging adjustment” for districts if:

- (i) the *basic funding per formula student* is less than the *statewide average basic funding per formula student* and
- (ii) the *general fund levy* for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated was at least \$1.00 per \$100 of taxable valuation.

NOTE: For school districts that are members of a learning community, the general fund levy for purposes of this adjustment includes both the *common general fund levy* and the *school district general fund levy*.

FINAL COMPUTATION:

The averaging adjustment would equal the district’s *formula students* multiplied by the *percentage* (specified below) for the district of the *difference* between the *statewide average basic funding per formula student* minus the district’s *basic funding per formula student*.

PERCENTAGE:

The percentage to be used in the calculation of an averaging adjustment would be based on the *general fund levy* for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated as follows:

- (1) If the levy was at least \$1.00 per \$100 of taxable valuation,
but less than \$1.01 per \$100 of taxable valuation..... 50%
- (2) If the levy was at least \$1.01 per \$100 of taxable valuation,
but less than \$1.02 per \$100 of taxable valuation..... 60%
- (3) If the levy was at least \$1.02 per \$100 of taxable valuation,
but less than \$1.03 per \$100 of taxable valuation..... 70%
- (4) If the levy was at least \$1.03 per \$100 of taxable valuation,
but less than \$1.04 per \$100 of taxable valuation..... 80%
- (5) If the levy was at least \$1.04 per \$100 of taxable valuation..... 90%

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 21	New Language	Teacher Education Adjustment

For 2008-09 and thereafter, LB 988 requires NDE to calculate a “teacher education adjustment” for each district as follows:

Teacher education points would be calculated for each district. Each district would receive:

- (i) One point for each full-time equivalent teacher who has earned and awarded a master’s degree or the equivalent of a *master’s degree* as determined by NDE and
- (ii) One additional point for each full-time equivalent teacher who has earned and awarded a *doctoral degree*.

A *teacher education index* would be calculated for each district by DIVIDING:

The <u>ratio</u> of <i>teacher education points</i> for the district <i>divided</i> by the number of full-time equivalent teachers in	<u>BY</u>	The <u>ratio</u> of <i>teacher education points</i> for all districts <i>divided</i> by the number of full time equivalent teachers in <i>all</i> districts
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FINAL COMPUTATION:

The teacher education adjustment for each district would equal 13.75% of the district’s *basic funding* multiplied by the district’s teacher education index minus 1. However, if the result is less than zero, the teacher education adjustment would equal zero.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 22	New Language	Student Growth Adjustment; Adjustment Correction

For 2009-10 and thereafter, school districts may apply to the State Board of Education for a “student growth adjustment,” by October 10 of the school fiscal year prior to the school fiscal year for which aid is being calculated.

FORM: The form to be used for application would require:

- (i) an estimate of the average daily membership for the school fiscal year for which aid is being calculated,
- (ii) the estimated student growth calculated by subtracting the fall membership of the current school fiscal year from the estimated average daily membership for the school fiscal year for which aid is being calculated, and
- (iii) evidence supporting the estimates.

DECISION: At the following November meeting of the State Board, the board must either (i) approve the estimated student growth, (ii) approve a modified student growth, or (iii) deny the application based on the requirements of the adjustment, the evidence submitted on the application, and any other information provided by NDE.

APPEAL: NDE would then notify each school district of the action taken by the State Board within 5 days following the November State Board meeting. School districts may appeal denials and modifications at the December State Board meeting if notice is given to the State Board by the school district within 10 days following the November meeting on a form prescribed by NDE. The appeal must include a public hearing before the State Board.

COMPUTATION: The student growth adjustment for each approved district would equal the *sum of the product* of:

- The district’s basic funding per formula student multiplied by
- The *difference* of the approved student growth minus the greater of 25 students or 1% of the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated plus
- The *product* of 50% of the district’s basic funding per formula student multiplied by
- The greater of 25 students or 1% of the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated

CORRECTION: For 2011-12 and thereafter, NDE would calculate a “student growth adjustment correction” for each district that received a student growth adjustment for aid distributed in the most recently available complete data year. The correction would equal the *product of the difference* of the average daily membership for such school fiscal year *minus* the *sum* of the formula students and the approved student growth used to calculate the student growth adjustment for such school fiscal year multiplied by the school district’s basic funding per formula student used in the final calculation of aid for such school fiscal year, *except* that the absolute value of a negative correction may not exceed the original adjustment.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 23	New Language	New School Adjustment

For 2009-10 and thereafter, school districts may apply to the State Board for a two-year “new school adjustment,” by October 10 of the school fiscal year prior to the school fiscal year for which the first-year new school adjustment would be included in the calculation of state aid.

FORM: The form used to apply for the adjustment would require:

- (i) evidence of recent and expected student growth,
- (ii) evidence that a new building or the expansion or remodeling of an existing building is being completed to provide additional student capacity to accommodate such growth and not to replace an existing building,

- (iii) evidence that the school fiscal year for which the district would receive the first-year adjustment will be the first full school fiscal year for which students will utilize the additional capacity, and
- (iv) evidence of the estimated additional student capacity to be provided by the project.

DECISION: At the following November State Board meeting, the State Board must (i) approve the estimated additional capacity for use in the adjustment, (ii) approve a modified estimated additional capacity for use in the adjustment, or (iii) deny the application based on the requirements of the adjustment, the evidence submitted on the application, and any other information provided by NDE.

Each approval shall include an approved estimated additional student capacity for the new building.

APPEAL: NDE would notify each school district of the action taken by the State Board within 5 days following the November State Board meeting. School districts may appeal denials and modifications at the December State Board meeting if notice is given to the State Board by the district within 10 days following the November meeting on a form prescribed by NDE. The appeal must include a public hearing before the State Board.

- COMPUTATION:
- (1) The *first-year* new school adjustment for each approved district would equal the district’s *basic funding per formula student* multiplied by 20% of the approved estimated additional student capacity.
 - (2) The *second-year* new school adjustment for each approved district would equal the district’s *basic funding per formula student* multiplied by 10% of the approved estimated additional student capacity.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 24	New Language	New Learning Community Transportation Adjustment

For state aid calculated for each of the first two full school fiscal years of a *new* learning community, each member school district may apply to the State Board for a “new learning community transportation adjustment,” by October 10 of the school fiscal year prior to the school fiscal year for which the adjustment would be included in the calculation of state aid.

FORM: A qualifying district must provide evidence that supports estimates of increased transportation costs for the district. At the following November State Board meeting, the State Board must (i) approve the estimate of increased transportation costs for use in the adjustment, (ii) approve a modified estimate of increased transportation costs for use in the adjustment, or (iii) deny the application based on the requirements of this section, the evidence submitted on the application, and any other information provided by the department.

APPEAL: NDE must notify each school district of the action taken by the State Board within 5 days following the November State Board meeting. School districts may appeal denials and modifications at the December meeting if notice is given to the State Board by the district within 10 days following the November meeting on a form prescribed by NDE. The appeal must include public hearing before the State Board.

COMPUTATION: The new learning community transportation adjustment would equal the approved estimate of increased transportation costs. Districts must submit evidence of the actual increase in transportation costs, and NDE must recalculate the adjustment using the actual costs.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 25	New Language	Instructional Time Allowance

Beginning with aid calculated for 2009-10 and thereafter, NDE would calculate an “instructional time allowance” for each district equal to the product of:

The formula students of each district	X	The instructional time factor	X	85% of the statewide average general fund operating expenditures per formula student
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The *instructional time factor* would equal the difference of the *ratio* of the district’s average hours of instruction for each full-time student during the regular school year for the most recently available complete data year *divided* by the comparison group average hours of instruction for each full-time student during the regular school year for the most recently available complete data year minus one. However, if the result is less than zero, the instructional time factor would equal zero.

FORM: NDE must develop a form for determining the district’s average hours of instruction for each full-time student. The *comparison group average hours of instruction for each full-time student* would be an average of the averages for the school districts in the comparison group.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 26	New Language	Aid Stabilization

For school fiscal year 2008-09, aid stabilization will be calculated for each local system and disbursed in an amount equal to the difference of the state aid paid to the local system for school fiscal year 2007-08 minus 2.5% of the need calculated for the school fiscal year for which aid is being calculated and minus the sum of the calculated equalization aid, allocated income tax funds, and net option funding for such school fiscal year, except that aid stabilization will not be less than zero.

For school fiscal year 2009-10, aid stabilization will be calculated for each local system and disbursed in an amount equal to the difference of the state aid paid to the local system for school

fiscal year 2007-08 minus 5% of the need calculated for the school fiscal year for which aid is being calculated and minus the sum of the calculated equalization aid, allocated income tax funds, and net option funding for such school fiscal year, except that aid stabilization will not be less than zero.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 27	§ 79-1007.04	Elementary Class Size Allowance

The elementary class size allowance was first implemented under LB 1024, which was passed in 2006, and modified under LB 641 (2007).

For 2008-09 only, the allowance calculation would be modified by basing the allowance on students in grades K-8 who qualify for free or reduced-price lunches and who spend at least 50% of the school day in one or more classrooms with a minimum of 10 students and a maximum of 20 students.

The calculation 2009-10 through 2012-13 would be based on the statewide average GFOE per adjusted formula student and the number of students in grades K-3, regardless of poverty status, who spend at least 50% of the school day in one or more classrooms with a minimum of 10 students and a maximum of 20 students.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 28	§ 79-1007.06	Poverty Allowance

LB 988 modifies the existing poverty allowance that was first implemented by LB 1024 (2006).

Under the provisions of the poverty allowance, applicable for 2008-09 and thereafter, NDE must determine the poverty allowance for each district that meets the requirements. Each district must designate a *maximum poverty allowance* on a form prescribed by NDE by November 1 (LB 988 changes this deadline to October 10) of the school fiscal year prior to the school fiscal year for which aid is being calculated.

The district may decline to participate in the poverty allowance by providing NDE with maximum poverty allowance of zero dollars on the form by November 1 (LB 988 changes this deadline to October 10) of the school fiscal year prior to the school fiscal year for which aid is being calculated.

Each school district designating a maximum poverty allowance greater than zero dollars shall submit a *poverty plan*.

COMPUTATION: As modified by LB 988, the computation of the poverty allowance for each qualified district would equal the *LESSER OF*:

- (1) The maximum amount designated by the school district in the local system, if the district designated a maximum amount, for the school fiscal year for which aid is being calculated;
- or

(2) The sum of:

- The statewide average general fund operating expenditures per formula student multiplied by 0.0375 then multiplied by the poverty students comprising more than 5% and not more than 10% of the formula students in the school district; plus
- The statewide average general fund operating expenditures per formula student multiplied by 0.0750 then multiplied by the poverty students comprising more than 10% and not more than 15% of the formula students in the school district; plus
- The statewide average general fund operating expenditures per formula student multiplied by 0.1125 then multiplied by the poverty students comprising more than 15% and not more than 20% of the formula students in the school district; plus
- The statewide average general fund operating expenditures per formula student multiplied by 0.1500 then multiplied by the poverty students comprising more than 20% and not more than 25% of the formula students in the school district; plus
- The statewide average general fund operating expenditures per formula student multiplied by 0.1875 then multiplied by the poverty students comprising more than 25% and not more than 30% of the formula students in the school district; plus
- The statewide average general fund operating expenditures per formula student multiplied by 0.2250 then multiplied by the poverty students comprising more than 30% of the formula students in the school district.

The existing language within the poverty allowance provides for 61% of the calculation of the maximum poverty allowance for each district. The proposal under LB 988 effectively provides for 75% of the maximum poverty allowance for each district.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 29	§ 79-1007.07	Annual Financial Report; Poverty Plan

Current law (79-528) requires every district to submit an *annual financial report* (AFR). Since 2006 (under LB 1024), the TEEOSA has included a separate section of law that requires the AFR to include various pieces of information relevant to the poverty allowance.

LB 988 adds another item to be reported: The expenditures and sources of funding for support costs directly attributable to implementing the district's poverty plan.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 30	§ 79-1007.08	LEP Allowance

The existing limited English proficiency allowance provided within TEEOSA would remain in effect for 2008-09 and thereafter with no substantive changes proposed under LB 988. The bill does change the deadline for submitting the necessary forms from November 1 to October 10.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 31	§ 79-1007.09	Annual Financial Report; LEP Allowance

Current law (79-528) requires every district to submit an *annual financial report* (AFR). Since 2006 (under LB 1024), the TEEOSA has included a separate section of law that requires the AFR to include various pieces of information relevant to the limited English proficiency allowance.

LB 988 would add another item to be reported: The expenditures and sources of funding for support costs directly attributable to implementing the district's limited English proficiency plan.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 32	§ 79-1007.10	Cost Growth Factor

This section of law would be amended to implement a new cost growth factor. The new factor would grow expenditures by 1% plus the basic allowable growth rate for the school fiscal year in which aid will be distributed and for the preceding school fiscal year. With the current basic allowable growth rate, the cost growth factor would equal 1.06 (1% + 2.5% + 2.5%). The current cost growth factor is 1.07.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 33	§ 79-1008.01	Calculation of Equalization Aid

This section of law outlines the basic formula of the system: Needs minus Resources equals Aid. Under LB 988, this basic formula remains unchanged.

Within this section of law, LB 988 eliminates the existing lop-off provision, stabilization (hold harmless provision), and small school stabilization provision.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 34	§ 79-1008.02	Minimum Levy Adjustment

This section of law would be amended by increasing the difference between the maximum common levy for learning communities and the levy that will trigger a minimum levy adjustment from 2¢ to 5¢.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 35	§ 79-1009	Net Option Funding

References to converted contract option students would be removed from the net option funding provisions in this section of law.

LB 988 clarifies that the determination of the net number of option students would be based on the number of students enrolled in the district as option students and the number of students residing in the district but enrolled in another district as option students as of the day of the fall membership count for the school fiscal year prior to the school fiscal year in which aid is to be paid. Net number of option students means the difference of the number of option students enrolled in the district minus the number of students residing in the district but enrolled in another district as option students.

For 2008-09 and thereafter, net option funding would be the sum of the product of the net number of option students multiplied by the statewide average basic funding per formula student.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 36	§ 79-1013	Poverty Plan

This section of law would amend the transportation and class size requirements for poverty plans. Poverty plans are currently required to provide transportation to students receiving free or reduced-price lunches if such students reside more than one-half mile from the school. The requirement would be changed to affect only such students residing more than 1 mile from the school. The requirement to include a plan for class size reduction or maintenance of small class sizes currently applies for students who qualify for free or reduced price lunches. The modified requirement is limited to elementary grades without regard to the poverty status of the students.

LB 988 also moves the deadline for submitting a maximum poverty allowance and a poverty plan up to October 10 from November 1.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 37	§ 79-1014	LEP Plans

This section of law is amended to require LEP plans for school districts that are members of a learning community to be submitted to the learning community coordinating council. The council would then be required to certify the approval or disapproval of the plan to NDE by December 5th.

LB 988 moves the deadline for submitting a maximum LEP allowance and an LEP plan up to October 10 from November 1.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 38	§ 79-1015.01	Local Effort Rate

This section of law is very important since it outlines the level of expected contribution from the local level in the way of property taxes for schools. LB 988 amends this section by increasing the local effort rate by 5¢ for the certification of aid. For the final calculation of aid, adjusted valuations (not assessed valuations) would be used for the determination of the local effort rate.

The changes would also clarify that the maximum levy used to determine the local effort rate is the maximum levy for school districts provided by law (\$1.05).

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 39	§ 79-1016	Adjusted Valuation

At one time, LB 988 proposed to eliminate the use of adjusted valuation for purposes of calculating state aid and replace it with assessed valuation. However, as passed, LB 988 would retain the use of adjusted valuation except that the parameters of state aid value would be changed as follows:

- (a) For real property other than agricultural and horticultural land, 96% of actual value (currently 100%); and
- (b) For agricultural and horticultural land, 72% of actual value (currently 75%). For agricultural and horticultural land that receives special valuation, 72% of special valuation (currently 75%).

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 40	§ 79-1018.01	Accountable Receipts

This section of law outlines those receipts that would be accountable to a district in the calculation of formula resources. LB 988 amends this section and clarifies that receipts derived from summer school and early childhood education tuition are not accountable receipts. The exclusion for converted contract receipts would be removed from this section.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 41	§ 79-1022	Distribution of Income Tax Receipts

Current law states that by February 1 of each year, NDE must determine the amounts of income tax receipts to be distributed to each local system and each district under the state aid formula and must certify the amounts to the Director of Administrative Services, the Auditor of Public Accounts, each learning community, and each district.

The amount to be distributed to each district that is *not* a member of a learning community from the amount certified for a local system would be proportional based on:

- (a) For school fiscal years prior to 2008-09, the *weighted formula students* attributed to each district in the local system; and
- (b) For 2008-09 and thereafter, the *formula students* attributed to each district in the local system.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 42	§ 79-1022.02	Certification

This is a very important provision of LB 988 since it voids the February 1, 2008 certification of state aid and causes a recertification of state aid by April 30, 2008.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 43	§ 79-1023	Budget Authority

This section of law would change the budget authority provisions of TEEOSA. Beginning with 2008-09, the maximum general fund budget, minus special grant funds and the special education budget, would be the *GREATER OF*:

1. 120% of needs minus the product of the basic allowable growth rate times the prior year's special education budget; or
2. The applicable allowable growth rate times the difference of the prior year's general fund budget minus special grant funds and the special education budget.

The calculation of the applicable allowable growth rate would continue. Unused budget authority would also be reinstated.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 44	§ 79-1024	Budget Statements

Removes obsolete language concerning Class I districts.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 45	§ 79-1028	Applicable allowable growth rate; Exceptions

The exceptions contained in this section would apply only to years prior to 2008-09. A new section would contain a new set of exceptions.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 46	New Language	Applicable allowable growth rate; Exceptions

This new section of law would apply when a district's budget authority is based upon the old system rather than the alternative, which is based upon 120% of needs.

For 2008-09 and thereafter, a school district may exceed its maximum general fund budget of expenditures minus the special education budget of expenditures by a specific dollar amount for:

- (1) Expenditures for repairs to infrastructure damaged by a natural disaster that is declared a disaster emergency under the Emergency Management Act;
- (2) Expenditures for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a school district that require or obligate a district to pay the judgment, to the extent the judgment is not paid by liability insurance coverage of a district;
- (3) Expenditures under the Retirement Incentive Plan or the Staff Development Assistance;
- (4) Expenditures of incentive payments or base fiscal year incentive payments to be received in such school fiscal year; and
- (5) Expenditures of amounts received from educational entities for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities.

The State Board would approve, deny, or modify the amount allowed for any exception to the maximum general fund budget of expenditures minus the special education budget of expenditures under this new section.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 47	§ 79-1029	Basic Allowable Growth Rate; Exceeding

Beginning in 2008-09, the optional 1% additional spending authority approved by the local board would be eliminated.

The provisions to place a spending limit override before the voters would be modified. For 2008-09 and thereafter, a district may exceed the maximum general fund budget of expenditures minus the special education budget of expenditures by an amount approved by a majority of legal voters voting on the issue at a primary, general, or special election called for such purpose upon the recommendation of the board or upon receipt by the county clerk or election commissioner of a petition requesting an election, signed by at least 5% of the legal voters of the district.

The recommendation of the board or the petition of the legal voters must include the amount by which the board would increase its general fund budget of expenditures for the ensuing school year over and above the maximum general fund budget of expenditures minus the special education budget of expenditures.

The county clerk or election commissioner must place the question on the primary or general election ballot or call for a special election on the issue after the receipt of the board recommendation or legal voter petition. All costs for a special election would be paid by the district. A vote to exceed the applicable allowable growth rate may be approved on the same question as a vote to exceed the levy limits.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 48	§ 79-1031.01	Appropriations Committee; Duties

Harmonizing changes.

Restates that the recertification will occur by April 30, 2008.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 49	§ 79-1073	Joint district or learning community

Harmonizing provisions.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 50	§ 79-1083.03	Class I School Districts

The provisions for Class I budget authority are limited to school fiscal years prior to 2008-09.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 51	§ 79-1229	ESU Annual Financial Reports

This provision of LB 988 would amend the Educational Service Units Act. It provides that by January 31 each year, the administrator of each educational service unit must submit to the Commissioner of Education a report described as the annual financial report showing:

- (a) the amount of money received from all sources during the year and the amount of money expended by the educational service unit during the year,
- (b) other information as necessary to fulfill the requirements for core services funding, and
- (c) such other information as the commissioner directs.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 52	79-1336	Distance Education Equipment

LB 988 allows distance education equipment reimbursements for equipment purchased either by, or on behalf of, school districts or ESUs. If the purchases were made on behalf of a school district or ESU, evidence would be required that the purchase was made on their behalf and that the school district or ESU paid directly or indirectly for the purchase.

LB 988 clarifies that requirement for school districts receiving distance education equipment reimbursements to send or receive distance education courses for four years is for four “consecutive” years.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 53	79-1337	Distance Education Equipment

Editorial change.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 54	79-2102	Learning Community

Editorial change.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 55	Omitted	Repealer

Repeals those sections that are being amended.

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 56	Omitted	Repealer

Outright repeals:

79-1007.03 *School fiscal year 2008-09 and subsequent fiscal years; adjusted formula students for local system; calculation.*

79-1009.01 *Converted contract option students; application; procedure.*

<i>Bill Sec.</i>	<i>Statute</i>	<i>Subject</i>
§ 57	Omitted	Emergency Clause

This section added the emergency (E) clause to the bill and required the legislation to be passed by at least 33 affirmative votes. If passed with the E clause, the legislation becomes effective one day after the Governor signs the legislation into law. LB 988 passed with the E-clause attached by a 33-14 on April 2, 2008 and was signed into law the same day. The bill became operative on April 3, 2008.