

# *Final Legislative Report*

## **First Session, 94th Legislature, 1995**

Status report on legislation tracked by the  
Nebraska Council of School Administrators

**June 21, 1995**

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## ***I. Legislation Passed and Signed into Law***

### ***A. Overview***

<b>BILL</b>	<b>BILLDESCRIPTION</b>	<b>SPONSOR</b>	<b>COMMITTEE</b>	<b>PAGE</b>
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## **A. In-depth Review**

*(Legislation Passed and Signed into Law)*

**LB 122** (Matzke) PAYMENT TO DISTRICTS: This bill amends section 23-1601 to require that on or before the 15th day of each month, county treasurers must pay districts the funds that have been collected on behalf of the district in the previous month. The treasurer will also include a statement indicating the source of all funds received or collected for school purposes. The statement is necessary to allow the auditor to perform an audit for the district, without having to reconstruct the entire year's activities. These provisions currently apply to payments made by county treasurers to cities and villages.

### **LB 122 - Legislative History**

**COMMITTEE ACTION:** advanced to General File on January 27, 1995 (5-0) from Government Affairs  
**GENERAL FILE:** advanced to Select on February 2, 1995  
**SELECT FILE:** advanced to Final on February 6, 1995  
**FINAL READING:** passed on February 27, 1995 (44-0-5)  
**SIGNED/LAW:** February 28, 1995  
**EFFECTIVE DATE:** September 9, 1995

**LB 123** (Matzke) TEMPORARY CERTIFICATES: LB 123 amends section 79-1247.05 to allow the State Board of Education to issue a teacher or administrator a temporary certificate who is first employed in a Nebraska school after April 1st of any year and who has met all requirements except: 1) the individual has not taken the basic skills competency examination; or 2) the individual has not "received a satisfactory score on the examinations." RENEWAL: LB 123 also allows holders of temporary certificates to renew said certificate for one additional year. SUBSTITUTE TEACHERS: Senator Vrtiska amended LB 123 prior to final passage by incorporating language from LB 785 concerning substitute teachers (section 79-1233). As amended, LB 123 would allow any person holding a valid certificate or permit to teach in another state to be employed as a substitute teacher in any public or private Nebraska school. The bill provides that such substitute teacher may be allowed to substitute teach for not more than ten (10) days and must begin the application process on the first day of employment for a Nebraska substitute teacher's certificate. EMERGENCY CLAUSE: LB 123 was passed with the emergency clause attached. Therefore, the legislation became effective one day after the Governor signed the bill. NCSA will seek clarification from the Department of Education as to whether teachers and administrators currently holding a temporary certificate at the time of passage of LB 123 would be eligible to apply for a renewal.

### **LB 123 - Legislative History**

**COMMITTEE ACTION:** advanced to General File on February 2, 1995 (7-0) from Education Committee  
**GENERAL FILE:** advanced to Select on March 21, 1995  
**SELECT FILE:** advanced to Final on March 30, 1995  
**FINAL READING:** passed on April 19, 1995 with "E" clause (43-0-6)  
**SIGNED/LAW:** April 24, 1995  
**EFFECTIVE DATE:** April 25, 1995

**LB 159** (Hartnett) TEXTBOOK LOANS: LB 159 amends section 79-4,118 to allow private school students to borrow textbooks designated for use in the school district where the private school is located, in addition to textbooks designated for use in the resident district. Currently, section 79-4,118 allows private school students to borrow textbooks which are designated for use in the public schools of the resident district only. With LB 159, the resident district would still administer the textbook loan.

### **LB 159 - Legislative History**

**COMMITTEE ACTION:** advanced to General File on January 24, 1995 (6-2) from Education Committee  
**GENERAL FILE:** advanced to Select on January 27, 1995  
**SELECT FILE:** advanced to Final on January 30, 1995  
**FINAL READING:** passed on February 8, 1995 (40-2-7)  
**SIGNED/LAW:** February 14, 1995  
**EFFECTIVE DATE:** September 9, 1995

## **LB 214** (Wesely) PHYSICAL EXAMS:

Cur-rent law under section 79-444 requires a school physical for children entering the beginner grades in school and also for the 7th grade. This legislation permits physical exams to be given by a physician's assistant or a nurse practitioner as well as physicians. LB 214 also allows physician's assistants and nurse practitioners to sign a statement that would allow a student to attend school without meeting the immunization requirements if the immunization is injurious to the student or a member of the family.

### **LB 214 - Legislative History**

<b>COMMITTEE ACTION:</b>	advanced to General File on January 20, 1995 (6-0) from Health/Human Services
<b>GENERAL FILE:</b>	advanced to Select January 25, 1995
<b>SELECT FILE:</b>	advanced to Final January 26, 1995
<b>FINAL READING:</b>	passed on February 8, 1995 with "E" clause (43-0-6)
<b>SIGNED/LAW:</b>	February 14, 1995
<b>EFFECTIVE DATE:</b>	February 15, 1995

## **LB 365** (Abboud) SPECIAL MASTER:

As amended and passed, LB 365 provides two major changes in the current structure of the Commission on Industrial Relations (CIR). LB 365 provides a process by which parties can elicit a special master to resolve contract negotiation disputes. SURVEY

FORMS: The legislation also institutes a process by which a party can prepare and distribute survey forms and data request forms through the CIR. OUTLINE: The following outline describes the changes made by LB 365.

### **LB 365 - Legislative History**

<b>COMMITTEE ACTION:</b>	advanced to General File on February 22, 1995 (4-2) from Business and Labor Com.
<b>GENERAL FILE:</b>	advanced to Select on May 16, 1995
<b>SELECT FILE:</b>	advanced to Final on May 30, 1995
<b>FINAL READING:</b>	passed on June 1, 1995 (27-17-5)
<b>SIGNED/LAW:</b>	June 1, 1995
<b>EFFECTIVE DATE:</b>	September 9, 1995

#### **I. SPECIAL MASTER PROCEEDINGS**

- A. After a petition is filed with the commission, both parties (mutual consent) may request appointment of a special master.
- B. Only applies to school districts, educational service units, and community colleges.
- C. Selecting a special master
  1. Commission furnishes parties with names of five special master candidates.
  2. If parties cannot agree, then each party shall alternatively strike names.
  3. The remaining individual shall serve as special master.
- D. Authority of special master
  1. Determine whether the issues are ready for adjudication;
  2. Identify for resolution terms and conditions of employment that are in dispute and which were negotiated in good faith but without agreement;
  3. Accept stipulations;
  4. Schedule hearings;
  5. Prescribe rules of conduct for the hearings;
  6. Order additional mediation if necessary; and
  7. Take any other action which may aid in resolution of the industrial dispute.
- E. Definition of "issue" — Issue means broad subjects of negotiation which are presented to the special master pursuant to this section. All aspects of wages are a single issue, all aspects of insurance are a single issue, and all other subjects of negotiations classified in broad categories are single issues.
- F. Special master may consult with a party ex parte with the concurrence of all parties.
- G. Most reasonable offer
  1. The special master shall choose the most reasonable final offer on each issue in dispute.
  2. In making such choice, the special master shall consider factors relevant to collective bargaining between public employers and employees, including:

**LB 365 Outline - continued**

- a. comparable rates of pay and
- b. conditions of employment

H. Informal proceedings

- 1. The special master shall not apply strict rules of evidence.
- 2. Non-attorneys may represent parties.

I. Dissatisfaction with decision

- 1. Should either party to a special master proceeding be dissatisfied with the special master's decision, such party shall have the right to file an action with the commission seeking a determination of terms and conditions of employment.
- 2. Such proceeding shall not constitute an appeal, but will be heard by the commission.
- 3. The commission shall resolve all issues identified by either party and which were recognized by the special master as an industrial dispute.
- 4. If such action has not been filed within thirty days after the filing of the special master decision, then the special master decision is deemed final and binding.

II. SURVEY FORMS OR DATA REQUEST FORMS

A. Either party to an action filed with the CIR can request such forms.

B. Responsibilities of requesting party:

- 1. Prepare its own survey forms or data request forms.
- 2. Provide CIR with names and addresses of the entities for whom documents will be sent (cannot exceed twenty addresses).
- 3. Pay all costs related to reproduction and mailing of forms.

**LB 369** (Retirement Committee) PRE-RETIREMENT SEMINARS:

An NCSA bill, LB 369 places a limit of two paid leave days for preretirement seminars per member of the Public Employees Retirement Systems. This legislation affects all five public retirement systems. LB 369 does not prevent members from attending additional seminars on their own time (e.g., summer seminars) or at the discretion of the employer.

MONITORING: The Nebraska Public Employees Retirement Agency will maintain records of each member's attendance at preretirement seminars. Employers can contact the agency to verify attendance records. IMPORTANT NOTE: Seminars attended prior to the effective date of LB 369 do not count with regard to the two paid leave day limitation. POLICY CONSIDERATION: School districts may wish to consider incorporating the two paid leave limitation in employee handbooks. (LB 369 also adds the County Employees Retirement System to the list of systems that offer financial planning programs prior to age 50.)

**LB 369 - Legislative History**

**COMMITTEE ACTION:** advanced to General File on January 31, 1995 (4-1) from Retirement Committee  
**GENERAL FILE:** advanced to Select on February 13, 1995  
**SELECT FILE:** advanced to Final on February 28, 1995  
**FINAL READING:** passed on June 1, 1995 (42-1-6)  
**SIGNED/LAW:** June 7, 1995  
**EFFECTIVE DATE:** September 9, 1995

**LB 392** (Withem) APPROPRIATIONS:

LB 392 is the Mainline appropriate bill. The Governor vetoed from the NDE budget \$300,000 (1996) for the School for the Deaf, \$750,000 (1996) for Vocational Rehabilitation, and \$95,000 (1996-98) for Textbook Loan aid. The Legislature voted 33 to 16 to override all three vetoes. The new money (\$750,000) for Vocational Rehabilitation will provide the match for \$2,767,500 in federal funds.

**LB 392 - Legislative History**

**COMMITTEE ACTION:** advanced to General on April 27, 1995  
**GENERAL FILE:** advanced to Select on May 5, 1995  
**SELECT FILE:** advanced to Final on May 22, 1995  
**FINAL READING:** passed on May 24, 1995 (35-9-6)  
**SIGNED/LAW:** May 29, 1995; veto overrides June 8, 1995  
**EFFECTIVE DATE:** September 9, 1995

**LB 501** (Retirement Committee)  
VEST-ING CREDIT: LB 501

establishes under the County, School Employees, State Patrol, and State Employees retirement systems an eligibility and vesting credit for participation in another Nebraska governmental retirement plan. Such credit would be limited to establishing service for eligibility purposes in the State and County plans and for determining vesting in the County, School Employees, State Patrol, and State Employees retirement systems. Such credit would not be included as any years of service in the benefit calculation. The election for such credit must be made within 30 days of employment for those hired after the effective date of LB 501. For existing employees, such election must be made within one year of the effective date of LB 501. Since judges are immediately eligible to participate in the Judges retirement system and since they are vested upon participation, LB 501 does not amend the Judges retirement system.

**LB 501 - Legislative History**

**COMMITTEE ACTION:** advanced to General File on January 30, 1995 (5-0) from Retirement Committee  
**GENERAL FILE:** advanced to Select on February 2, 1995  
**SELECT FILE:** advanced to Final on February 28, 1995  
**FINAL READING:** passed on March 15, 1995 (35-0-14)  
**SIGNED/LAW:** March 22, 1995  
**EFFECTIVE DATE:** September 9, 1995

**LB 502** (Retirement Committee)  
PERB: LB 502 amends section 84-1503 by specifying that the Public Employees Retirement Board (PERB) must obtain actuarial services through an open, competitive bidding process through DAS. The contract for such services will be with the State of Nebraska. LB 502 specifies that any contract for actuarial services must contain a provision which allows the actuary, without prior approval of the PERB, to perform actuarial studies of the systems as requested by entities other than the PERB if notice is given to the PERB, costs are paid by the requesting entity, results are provided to the PERB upon being made public, and the actuarial studies will not interfere with the actuary's ongoing responsibility to the PERB. The notice must not identify the entity nor the substance of the request. This contract may also contain an option which allows renewal of the contract for up to three years without utilizing the open, competitive bidding process under DAS. Under current law, an actuary under contract with the State of Nebraska must be a member of the American Academy of Actuaries.

**LB 502 - Legislative History**

**COMMITTEE ACTION:** advanced to General File on January 30, 1995 (5-0) from Retirement Committee  
**GENERAL FILE:** advanced to Select on February 2, 1995  
**SELECT FILE:** advanced to Final on February 28, 1995  
**FINAL READING:** passed on March 15, 1995 with "E" clause (35-0-14)  
**SIGNED/LAW:** March 21, 1995  
**EFFECTIVE DATE:** March 22, 1995

**LB 505** (Will) OPS RETIREMENT: LB 505 amends the Omaha School Employees Retirement System by: 1) increasing the formula annuity factor from 1.70% to 1.80%; 2) authorizing a Rule of 85 with a minimum retirement age of 55; 3) providing early retirement benefits based on a .25% per month reduction between receipt of retirement benefit and age 62 as limited by a modified Rule of 85; 4) providing a 3% cost-of-living adjustment (COLA) for each year since retirement, not to exceed 9% or a 90% restoration of purchasing power COLA, if larger; and 5) increasing the employee contribution rate to 6.3%. Omaha Public Schools anticipates general fund savings due to payroll savings from the increased number of employees electing retirement at an earlier date.

**LB 505 - Legislative History**

**COMMITTEE ACTION:** advanced to General File on February 13, 1995 (6-0) from Retirement Committee  
**GENERAL FILE:** advanced to Select on March 30, 1995  
**SELECT FILE:** advanced to Final on May 19, 1995  
**FINAL READING:** passed on June 1, 1995 with "E" clause (38-4-7)  
**SIGNED/LAW:** June 1, 1995  
**EFFECTIVE DATE:** June 2, 1995

**LB 542** (Beutler) IMPACT AID: LB 542 addresses payments to districts who received less state aid for the 1990-91 school year, because federal impact aid was considered as a formula resource. If certain federal legislation is enacted by October 1, 1995, NDE will make payments to school districts which received less state aid for the 1990-91 school year due to the inclusion of federal impact

aid entitlements in the calculation of district formula resources. The payments shall be made on or about October 16, 1996 from funds appropriated for this purpose. Each affected district will receive the difference between the state aid the district received for the 1990-91 school year and the amount the district would have received if impact aid had not been considered. No payment will be made to school districts which receive federal impact aid entitlements under section (3)(d)(2)(B) of Public Law 81-874 or similar provisions of the 1994 re-enactment of the impact aid statutes.

If no funds are separately appropriated, NDE will set aside the payments out of the amount appropriated to the Tax Equity and Educational Opportunities Fund for the 1995-96 school year. If the federal legislation is enacted, NDE will make payments from the funds set aside. If the federal legislation is not enacted, the funds will be held until it is determined whether Nebraska is certified to take impact aid into consideration for the 1990-91 state aid distribution. If Nebraska is certified to consider the entitlements, the funds will be reappropriated to the Tax Equity and Educational Opportunities Fund. If Nebraska is not certified to consider the entitlements, NDE will make the payments from the funds set aside within 60 days after the final determination.

There are two options for the federal legislation at issue. The first option would provide that payments under section 3(d)(2)(B) of Public Law 81-874 do not need to be refunded for the 1990-91 school year, that funds do not need to be restored or reimbursed to affected districts by redistributing state aid for the 1990-91 school year, and that Nebraska be deemed not certified for the 1991-92 school year. The second option would provide that payments under Public Law 81-874 do not need to be refunded for the 1990-91 school year and that Nebraska be deemed certified for school years 1990-91 through 1994-95. The federal Department of Education determines if states are certified for impact aid based on compliance with program rules and regulations.

Payments made pursuant to this bill will not be considered as district formula resources. An emergency clause is added.

#### COMMITTEE AMENDMENT

The committee amendment modifies the requirements for federal legislation. The legislation would provide that payments under section 3(d)(2)(B) of Public Law 81-874 do not need to be refunded for the 1990-91 school year, and either: (i) provide that funds need not be restored or reimbursed to affected local education agencies from state aid distributions for school year 1990-91 and deem Nebraska not certified for school years 1991-92 through 1994-95, or (ii) deem Nebraska to be certified for school year 1990-91 and deem Nebraska not certified for school years 1991-92 through 1994-95. The legislation would need to be enacted with an effective date not later than October 1, 1995, instead of being required to be enacted by that date.

In addition, the amendment adds a new section clarifying that this act does not alter the duties of NDE under §79-1369 to make adjustments, so that districts receive all of the funds they are entitled to. LB 542 will also not be construed to relieve NDE of obligations to make allocation adjustments following a final determination under the provisions of this act.

### **LB 542 - Legislative History**

<b>COMMITTEE ACTION:</b>	advanced to General File on March 7, 1995 (6-0) from Education Committee
<b>GENERAL FILE:</b>	committee amendment adopted; advanced to Select on March 30, 1995
<b>SELECT FILE:</b>	advanced to Final on April 13, 1995
<b>FINAL READING:</b>	passed on April 27, 1995 with "E" clause (36-0-13)
<b>SIGNED/LAW:</b>	May 3, 1995
<b>EFFECTIVE DATE:</b>	May 4, 1995

**LB 613** (McKenzie) LID BILL: LB 613 is the lid bill for schools and other political subdivisions. The committee amendments, adopted prior to advancement, struck certain language from the bill, including reference to: 1) exceeding the lid by 1% with a super majority, and 2) continuing budget authority. In other words, the foregoing items would be left intact for use by political subdivisions. As passed and signed into law, LB 613 will reduce lids for political subdivisions by 1% (for schools, a 1% reduction in the budget lid).

<b>LB 613 - Legislative History</b>	
<b>COMMITTEE ACTION:</b>	advanced to General File on March 13, 1995 (5-2) from Revenue Committee
<b>GENERAL FILE:</b>	advanced to Select on May 9, 1995
<b>SELECT FILE:</b>	advanced to Final on May 25, 1995
<b>FINAL READING:</b>	passed on June 8, 1995 with "E" clause (36-11-2)
<b>SIGNED/LAW:</b>	June 13, 1995
<b>EFFECTIVE DATE:</b>	June 14, 1995

**LB 658** (Pirsch) SHELL BILL: LB 658 originally concerned Aid to Dependent Children (ADC) when it was introduced by Senator Pirsch in January, 1995. When the bill was advanced to Select File, Senator Pirsch successfully amended the contents of her bill into another bill, LB 455. Her actions resulted in LB 658 becoming a "shell bill" in which another senator could amend to suit their purposes. Such was the device Senator Bohlke employed to insert the gun free schools language mandated by the federal government through the Elementary and Secondary Education Act (ESEA). CONFUSION WITH GUN FREE SCHOOL ZONES ACT: The gun free schools provision in ESEA should not be confused with the Gun Free School Zones Act passed by Congress last year. The Gun Free School Zones Act was recently ruled unconstitutional by the United States Supreme Court. Conversely, the gun free schools provision of ESEA constitutes current federal law unencumbered by any court ruling. BASIC ELEMENTS OF ESEA REQUIREMENT: Under the new federal law, each school district must adopt a policy which states the district will enforce a one calendar year expulsion for any student who possesses or transmits a firearm on school grounds. However, the law also authorizes superintendents to modify the one year expulsion term on a case by case basis (i.e., reduce the sanction). AT STAKE FOR NEBRASKA: States not complying with the ESEA firearms provision risk losing federal education funds. For Nebraska, this meant potentially losing \$36 million of federal funds (mostly Title I). OBSTACLE: Not all legislators were convinced by the need to comply with the federal mandate, including Senator Withem. Ultimately, Senators Bohlke and Withem came to an agreement. COMPROMISE: Senator Bohlke orchestrated a compromise with Senator Withem on the issue. The compromise amendment would implement the gun free schools language and also add language from LB 639 concerning alternative educational programs. LB 639, introduced by Senator Withem and opposed by NCSA, would require all districts to implement an alternative educational program beginning on January 1, 1997. ELEMENTS OF LB 658 AS PASSED: As amended, passed and signed, LB 658 contains three major components (although two parts are somewhat related). These components, all of which amend various sections of the Student Discipline Act, include: (1) add gun free schools provision; (2) add extension of school grounds language; and (3) amend alternative educational programs provision. OUTLINE: The following outline reflects the three major elements of LB 658.

<b>LB 658 - Legislative History</b>	
<b>COMMITTEE ACTION:</b>	advanced to General File on March 7, 1995 (4-1) from Health/Human Services
<b>GENERAL FILE:</b>	advanced to Select on March 14, 1995
<b>SELECT FILE:</b>	advanced to Final on May 25, 1995
<b>FINAL READING:</b>	passed on June 1, 1995 (39-3-7)
<b>SIGNED/LAW:</b>	June 2, 1995
<b>EFFECTIVE DATE:</b>	September 9, 1995

Such was the device Senator Bohlke employed to insert the gun free schools language mandated by the federal government through the Elementary and Secondary Education Act (ESEA). CONFUSION WITH GUN FREE SCHOOL ZONES ACT: The gun free schools provision in ESEA should not be confused with the Gun Free School Zones Act passed by Congress last year. The Gun Free School Zones Act was recently ruled unconstitutional by the United States Supreme Court. Conversely, the gun free schools provision of ESEA constitutes current federal law unencumbered by any court ruling. BASIC ELEMENTS OF ESEA REQUIREMENT: Under the new federal law, each school district must adopt a policy which states the district will enforce a one calendar year expulsion for any student who possesses or transmits a firearm on school grounds. However, the law also authorizes superintendents to modify the one year expulsion term on a case by case basis (i.e., reduce the sanction). AT STAKE FOR NEBRASKA: States not complying with the ESEA firearms provision risk losing federal education funds. For Nebraska, this meant potentially losing \$36 million of federal funds (mostly Title I). OBSTACLE: Not all legislators were convinced by the need to comply with the federal mandate, including Senator Withem. Ultimately, Senators Bohlke and Withem came to an agreement. COMPROMISE: Senator Bohlke orchestrated a compromise with Senator Withem on the issue. The compromise amendment would implement the gun free schools language and also add language from LB 639 concerning alternative educational programs. LB 639, introduced by Senator Withem and opposed by NCSA, would require all districts to implement an alternative educational program beginning on January 1, 1997. ELEMENTS OF LB 658 AS PASSED: As amended, passed and signed, LB 658 contains three major components (although two parts are somewhat related). These components, all of which amend various sections of the Student Discipline Act, include: (1) add gun free schools provision; (2) add extension of school grounds language; and (3) amend alternative educational programs provision. OUTLINE: The following outline reflects the three major elements of LB 658.

## I. GUN FREE SCHOOLS PROVISION

- A. Offense: The expulsion of a student for the knowing and intentional possession, use, or transmission of a firearm:
  - 1. on school grounds;
  - 2. in a school-owned vehicle being used for a school purpose; or
  - 3. at a school-sponsored activity or athletic event.

*LB 658 Outline continued*

**LB 658 Outline** - continued

- B. Sanction
  - 1. Each school district shall adopt a policy requiring the expulsion from school for the above mentioned offense for a period of not less than one calendar year.
  - 2. The policy shall authorize the superintendent or school board to modify the expulsion requirement on an individual basis.
- C. Definition of "firearm"
  - 1. For purposes of the gun free schools provision, school districts must adhere to the federal definition of "firearm."
  - 2. The federal definition of "firearm" is codified under 18 U.S.C. 921.
- D. Exceptions to offense
  - 1. The issuance of firearms to or possession of firearms by members of the Reserve Officers Training Corps when training; or
  - 2. Firearms which may lawfully be possessed by the person receiving instruction under the immediate supervision of an adult instructor who may lawfully possess firearms.
- E. Annual duties - each school district shall annually provide to the State Department of Education the following items:
  - 1. An assurance that the school district has in effect the policy described under A and B of this outline; and
  - 2. A description of the circumstances surrounding any expulsions imposed under the policy described under A and B of this outline, including:
    - a. The name of the school concerned;
    - b. The number of students expelled from the school; and
    - c. The types of weapons concerned.

**II. EXTENSION OF SCHOOL GROUNDS LANGUAGE**

- A. LB 658 also amends section 79-4,180 relating to the grounds for long-term suspension, expulsion, or mandatory reassignment.
- B. The former law provided that certain activities or offenses occurring on school grounds were actionable by the school district.
- C. LB 658 provides for actionable response by the school district when activities or offenses occur:
  - 1. on school grounds,
  - 2. in a school-owned vehicle being used for a school purpose, or
  - 3. at a school-sponsored activity or athletic event.

**III. ALTERNATIVE EDUCATION PROGRAMS PROVISION**

- A. The former law provided that school districts may establish alternative education programs.
- B. LB 658 provides that districts must establish an alternative school, class, or educational program available or in operation for all students expelled or whose expulsion has been suspended as provided in the Student Discipline Act.
- C. Each district must comply with the foregoing requirement beginning January 1, 1997.
- D. The State Department of Education must adopt and promulgate rules and regulations relating to alternative schools, classes, and educational programs.

**LB 742** (McKenzie) SPECIAL EDUCATION BILL: As originally introduced, LB 742 would have placed a cap on state appropriations for special education costs at the \$122 million level. However, upon advancement of the bill to General File, the purpose of the bill had been expanded to include implementation of a new funding

**LB 742 - Legislative History**

**COMMITTEE ACTION:** advanced to General File on March 10, 1995 (6-2) from Education Committee  
**GENERAL FILE:** advanced to Select on April 19, 1995  
**SELECT FILE:** advanced to Final on May 23, 1995  
**FINAL READING:** passed on June 8, 1995 with "E" (45-3-1)  
**SIGNED/LAW:** June 13, 1995  
**EFFECTIVE DATE:** June 14, 1995

mechanism. Through the course of several months of debate and a number of compromises, the bill was finally passed and signed into law. OUTLINE: The following outline is an analysis of the final version of LB 742.

## **LB 742 Outline Analysis**

### **I. REVIEW RULES AND REGULATIONS**

- A. Charge - The Nebraska Department of Education (NDE) is to review existing rules and regulations and state laws relating to special education programs.
- B. Objective
  - 1. Submit recommendations for state laws, rules and regulations that could be repealed, modified, or retained to reduce restrictions on districts/ESUs/cooperatives.
  - 2. Include estimated fiscal impact of recommendations.
- C. Timeline - Report to Education Committee by June 1, 1996.
- D. Generally - NDE must strengthen their roles in facilitating the effective and efficient delivery of quality special education programs and support services with an emphasis on technical assistance.

### **II. LEGISLATURE FINDINGS - The funding system for special education programs should:**

- A. be neutral as to identification and programming of programs and support services for students with handicaps and students needing support services; and
- B. encourage programs and services that are consistent with sound education practice, preventive, and, when appropriate, integrated with regular education services.
- C. be driven by educational needs rather than state funding formulas.

### **III LEGISLATIVE INTENT**

- A. Beginning with school year 1998-99, a new funding system will be implemented to replace the existing excess cost reimbursement system for the funding of special education programs
- B. The new funding system:
  - 1. shall be identification and program neutral;
  - 2. assure that adequate resources are available to meet the needs of handicapped students and students needing support services, and
  - 3. provide for equity in special education programs and support services to students regardless of the district in which students reside.
- C. The new funding system should be designed so that average annual special education costs increase at a rate no greater than the average annual growth rate of general education.
- D. State funding should be made available to meet the needs of handicapped students without the requirement that students be identified and verified as students with disabilities as defined in the Special Education Act, the federal IDEA, and relevant rules and regulations.

### **IV. LEGISLATIVE RECOGNITIONS**

- A. The shift from an excess cost reimbursement funding formula to a new funding system which meets the legislative intent stated above for special education programs raises several issues which demand further public discussion prior to implementation, including:
  - 1. how to establish the basis for distribution of state funding,
  - 2. how to provide for the financial support of students with extremely disabling conditions and extraordinary needs which result in high costs to school districts beyond the districts' ability to reasonably provide for special education programs and support services utilizing block grant support and local resources,
  - 3. how to establish the state funding level,

LB 742 Outline - *continued*

## LB 742 Outline - *Continued*

4. how to assure that funding for special education programs and support services is maintained at the same levels of growth or decline as funding levels of general education
  5. how to establish educational practices for delivery of quality special education programs and support services
  6. how the new funding system should be integrated with general state aid to be consistent with the principles of student and taxpayer equity underlying the state's equalization aid program
  7. how to phase in the new funding system to minimize financial impacts on school districts
  8. how accountability for appropriate educational needs shall be established for school districts, educational service units, or approved cooperatives to qualify for the new funding system, and
  9. how the State Department of Education can integrate the administration of the new funding system to eliminate duplication in aid payments accounting, and reporting of expenditures.
- B. The foregoing issues will be addressed by the Special Education Accountability Commission in consultation with:
1. the School Finance Review Committee;
  2. the State Department of Education; and
  3. the Education Committee.
- C. The Education Committee and the Special Education Accountability Commission will receive written proposals for alternative funding systems for special education services which meet the goals stated above from any individual, agency or group until January 15 1996.

V. **DEFINITION OF SUPPORT SERVICES** — LB 742 provides a statutory definition of “support services”: Support services shall mean preventive services for those students not identified or verified as handicapped pursuant to section 79-3309 and sections 79-3316 to 79-3318 but demonstrating a need for specially designed assistance in order to benefit from the school district's general education curriculum and to avoid the need for potentially extensive special education placement and services.

## VI. DISTRIBUTION OF FUNDS

- A. **Amounts** - For programs and services provided in FY 1995-96 to FY 1987-88, NDE will reimburse each district, ESU, or cooperative in the following fiscal year a pro rata amount determined by the State Board of Education from appropriations approved by the Legislature and based on allowable excess costs for all special education programs.
- B. **Payment Schedule** - The payments shall be made by NDE to the resident district, ESU, or cooperative each year in seven equal monthly payments between the fifth and twentieth day of each month beginning in December.
- C. **Duty of State Treasurer** - Between the fifth and twentieth day of each month, the State Treasurer will notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. Upon receiving the certification, the director will draw warrants against funds appropriated.

## VII. STATE APPROPRIATIONS *(See chart provided on page 12)*

- A. **Fiscal year 1995-96:** Approximately \$122 million appropriated for special education costs for service year 1994-95.
- B. **Fiscal year 1996-97:** Approximately \$125 million (2.5% increase over FY 1995-96) appropriated for service year 1995-96.

LB 742 Outline - *continued*

## **LB 742 Outline - Continued**

- C. Fiscal year 1997-98: Approximately \$129 million (3.0% increase over FY 1996-97) appropriated for service year 1996-97.
- D. Fiscal year 1998-99: New funding mechanism implemented.

### **VIII. SPECIAL EDUCATION ACCOUNTABILITY COMMISSION**

- A. Membership - Increase membership from thirteen to seventeen members with the following additions:
  - 1. Increase to two the number of members who are administrators not involved in special education;
  - 2. Increase to two the number of special education administrators;
  - 3. Add one school district business manager; and
  - 4. Add one representative of private schools.
- B. Appointment - all members are appointed by the Governor with the consent of the Legislature upon the recommendations of associations and organizations representing parents, teachers, school administrators, and school board members.
- C. Terms
  - 1. Members appointed before the effective date of LB 742 (i.e., June 14, 1995) will serve for one three-year term.
  - 2. Members appointed on or after the effective date of this act shall serve terms which terminate on the date the terms of the three-year members terminate.
- D. General Mission - The Special Education Accountability Commission shall develop an accountability system which adequately measures efficiency and effectiveness of special education programs in a cost-effective manner.
- E. Specific Duties - The commission shall:
  - 1. Review all applicable federal and state laws;
  - 2. Make recommendations relating to the mechanics for implementation of a new funding system. In making the recommendations the commission will collaborate with members of the:
    - a. School Finance Review Committee,
    - b. State Department of Education, and
    - c. Education Committee.
  - 3. Review any regulatory or procedural changes to determine compatibility with existing law, fiscal impact, and impact on student outcomes;
  - 4. Review findings of previous committees which have conducted similar studies; and
  - 5. Address issues and make recommendations for accountability measures for special education, including recommendations for
    - a. broad frameworks for special education program standards,
    - b. a system for assessing student outcomes, and
    - c. a system for management and monitoring of special education costs and their impact on total education costs.
  - 6. Make recommendations for an accountability report which will describe the special education programs provided to students with handicaps and the impacts of those programs in the education and posteducation performance of such students.
    - a. The report must be incorporated into the State Department of Education data systems and
    - b. integrated with any accountability measures or student assessment system recommended by the Nebraska Schools Accountability Commission and implemented by the State Department of Education.

*LB 742 Outline - continued*

**LB 742 Outline - Continued**

**F. Demonstration sites**

1. The commission may select sites for the purpose of pilot implementation of program models which can document cost containment while maintaining appropriate special education programs.
2. Sites may continue for up to three school years.
3. Sites shall be exempt from the provisions of the Special Education Act but must comply with the federal IDEA.
4. The State Board of Education may waive application of any provision in its rules and regulations promulgated when such provisions would directly limit the ability of the pilot program to accomplish its stated goals.

**G. Reporting**

1. The commission must submit a report of its activities and recommendations to the Committees on Education and Appropriations, and the State Board of Education on or before September 1, 1996.
2. A final report must include the commission's:
  - a. evaluation of pilot programs;
  - b. recommended legislation to implement a new funding system; and
  - c. recommendations for accountability measures for special education programs.

**IX. WAIVER OF RULES AND REGULATIONS**

- A. Process - NDE will provide a process for the waiver of rules and regulations adopted and promulgated under Chapter 79 related to special education programs
- B. Limitations - Waivers cannot apply to any requirements subject to federal laws or federal rules and regulations.
- C. Eligibility - Any entity subject to state rules and regulations for special education may apply for a waiver of such rules and regulations each year until August 31, 1998.
- D. Granting waivers - The State Board of Education will grant or deny a waiver request at the next regularly scheduled meeting of the board following receipt of the written waiver request.
- E. Study of waiver process - The waiver process will be studied for effectiveness by the State Board of Education, and the board will provide a report to the Education Committee in January, 1998.

**State Appropriations for Special Education Programs and Services  
under the Final Reading Version of LB 742e**

<b>Fiscal Year (FY)</b>	<b>1995-96</b>	<b>1996-97</b>	<b>1997-98</b>	<b>1998-99</b>
<i>State Appropriation</i>	<i>\$122 million*</i>	<i>\$125 million*</i> <i>(2.5% increase from FY 1995-96)</i>	<i>\$129 million*</i> <i>(3.0% increase from FY 1996-97)</i>	<b>New funding system implemented</b>
<b>Service Year</b>	<b>1994-95</b>	<b>1995-96</b>	<b>1996-97</b>	<b>Funds appropriated in FY 1998-99 are for service year 1998-99</b> <b>No funds appropriated for service year 1997-98</b>

\* Estimated figures

† The introducers' intent for the new funding system is to allocate funds to districts within the then current service year.  
(Slanted arrows indicate one year in arrears provision of current special education cost reimbursement structure.)

**LB 840** (Bohlke) REORGANIZATION BILL:

LB 840 provides a hold harmless provision for reorganized districts. To qualify for the provision, two or more districts must consolidate into one or more reorganized districts.

DEFINITION OF CONSOLIDATION: Consolidation means voluntarily reducing the number of districts providing education to a grade group.

DEFINITION OF REORGANIZED DISTRICT: Reorganized districts are any districts currently educating students following a consolidation.

THREE-YEAR HOLD HARMLESS PROVISION: In the base year, the reorganized district will receive the greater of 100% of the state aid (or portion thereof) calculated for the individual districts involved in the reorganization in the year prior to the base year or the amount the reorganized district would receive under normal state aid calculations. The base year is the first year in which a reorganized district is viewed as a single district for the calculation of state aid. In the second year, the same provisions apply, except that the amount available based on pre-consolidation aid will be 66% of the amount calculated for the year prior to the base year. In the third year, the percentage is reduced to 33%. In the fourth year after reorganization, and in each year thereafter, the reorganized district will receive state aid in the amount calculated under the normal provisions of the Tax Equity and Educational Opportunities Support Act. If the total amount of incentive payments to school districts for a school year exceeds the total amount appropriated as hold harmless payments for fiscal year 1994-95, the incentive payments will be reduced proportionately so that the total amount of aid does not exceed that amount.

**LB 840 - Legislative History**

**COMMITTEE ACTION:** advanced to General File on March 10, 1995 (6-1) from Education Committee

**GENERAL FILE:** advanced to Select on March 23, 1995

**SELECT FILE:** advanced to Final on April 27, 1995

**FINAL READING:** passed on June 8, 1995 with "E" (47-1-1)

**SIGNED/LAW:** June 13, 1995

**EFFECTIVE DATE:** June 14, 1995

**LB 860** (Robinson) INTERNET BILL:

LB 860 would provide provide funds for districts that have not yet connected to Internet through a grant application system. Initially, the bill provided for grant funds from the Education Innovation Fund.

FINAL VERSION: Under the Final Reading version of the bill, the funding source will

be drawn from the School Weatherization Fund. The School Weatherization Program is facilitated by the State Energy Department and is designed to provide loans for school energy efficiency projects. At the present time, there is approximately \$3.5 million available cash in the Weatherization Fund. The Weatherization will statutorially sunset on June 30, 1996. When the Weatherization Program sunsets, the funds will be transferred to the School Technology Fund administered by NDE.

FINAL ISSUE OF DEBATE: At issue during Final Reading debate was whether those districts that have already connected to Internet should receive "reimbursement grants" for previous connection expenses or at least have equal eligibility to grant funds under LB 860. A series of amendments were filed and debated by Senators Beutler, Witek, Bromm and Robak to alter the language of the bill, but all amendments failed.

PRIORITY GRANTS: As passed, LB 860 provides first priority for disbursement of funds to provide noncompetitive grants to K-12 school districts or affiliated systems based upon need for direct connection to the statewide computer information network, Internet, as provided by ESUs. Subsequent priorities would include development of networking capabilities within a district or a system, purchase or installation of equipment or other needs as determined by the Department of Education. The department is required to promulgate rules and regulations in order to determine how the grants will be processed.

NO EMERGENCY CLAUSE: Since LB 860 contained an emergency (E) clause, the bill required 33 votes to pass, but failed to do so on the initial vote (31 to 16). Without the "E" clause, the bill passed easily, also on a 31 to 16 vote.

**LB 860 - Legislative History**

**COMMITTEE ACTION:** advanced to General File on March 9, 1995 (6-0) from General Affairs Committee

**GENERAL FILE:** advanced to Select on March 23, 1995

**SELECT FILE:** advanced to Final on April 27, 1995

**FINAL READING:** passed on June 1, 1995 (31-16-2)

**SIGNED/LAW:** June 7, 1995

**EFFECTIVE DATE:** September 9, 1995

## II. Carryover Education Legislation

### A. Overview

CATEGORY	BILL NO.	BILL DESCRIPTION	CHIEF SPONSOR	STATUS	PG. NO.
<i>CAPITAL IMPROVEMENT</i>	LB 651	Create fund through electronic lottery	B.-Stevens	Held in committee	15
	LB 664	Create fund through income tax rebate	Maurstad	Held in committee	15
<i>CERTIFICATION</i>	LB 740	High ability curriculum requirements	McKenzie	Held in committee	15
<i>CRIMINAL HISTORY</i>	LB 148	Relating to transportation employees	Lynch	Held on General File	15
<i>EARLY CHILDHOOD</i>	LB 47	Exceptions/minimum age for enrollment	Schimek	Held on General File	16
<i>ESUs</i>	LB 733	District withdrawal from ESU region	Hartnett	Held in committee	16
<i>EMPLOYMENT MATTERS</i>	LB 142	Requirement for teacher preparation time	Beutler	Held on General File	16
	LB 607	Hearing officers/termination proceedings	Wesely	Held in committee	17
	LB 625	Salary negotiation statutory deadline	Bohlke	Held in committee	17
	LB 676	Early retirement incentive legislation	Wickersham	Held on General File	17
<i>MISCELLANEOUS</i>	LB 149	Create Comp. Rehab. & Technology Act	Lynch	Held in committee	18
	LB 604	County reorganization committees	Schrock	Held on General File	19
	LB 624	NDE technical clean-up bill	Ed. Com.	Held on General File	19
	LB 716	Relates to Board of Ed. Lands and Funds	Wickersham	Held on General File	20
	LB 818	Creates the Charter Schools Act	Hall	Held in committee	22
<i>SCHOOL FINANCE</i>	LB 349	Relating to income factor in LB 1059	Robak	Held on General File	22
	LB 543	Modifies tier structure in LB 1059	Beutler	Held on General File	23
	LB 622	Change formula to calculate state aid	Ed. Com.	Held in committee	23
	LB 670	Relating to allocated income tax funds	Withem	Held in committee	24
	LB 845	Class I school district audits	Bohlke	Held on General File	24
<i>STUDENT DISCIPLINE</i>	LB 708	Option students and disciplinary action	Hartnett	Held on General File	24

***NOTE: The following bills were either held in the Education Committee or advanced to General File and will carryover to the 1996 Legislative Session. The descriptions have been updated and a complete list of pending amendments have been provided.***

## **B. In-depth Review**

*(Carryover Education Legislation)*

### **1. Capital Improvement**

**LB 651** (Bernard-Stevens) ELECTRONIC LOTTERY: LB 651 establishes the School District Capital Improvements Fund which is to receive 49.5% of the proceeds from the operation of electronic lottery devices by racetracks if legislation is enacted authorizing operation of these devices. School districts with bonded indebtedness will receive payments from the fund beginning in 1997-98 per a formula stated in the bill if lottery devices are authorized for racetracks. Payments will be prorated if funds are not sufficient and the act terminates 12 years after the effective date. ***(No action taken by Education Committee to date)***

**LB 664** (Maurstad) INCOME TAX REBATE: LB 664 provides that up to 10% of the amount allocated as income tax rebate funds for purposes of state aid to schools can be distributed as school bond aid to retire bonded indebtedness beginning in 1995-96. If requests exceed 10% of the School District Income Tax Fund, then school bond aid payments are to be prorated. The bill will result in a shift in state aid between school districts. Approximately \$12.5 million in 1995-96 and \$13.5 million in 1996-97 of state aid payments could be distributed as school bond aid instead of income tax rebate. All schools will lose income tax rebate funds and schools with bonded indebtedness will gain state aid in amounts based upon the assistance factors computed for each school district. The overall impact of the bill on individual districts will depend upon what effect the decrease in resources from the income tax rebate has on the amount of equalization aid received. ***(No action taken by Education Committee to date)***

### **2. Certification**

**LB 740** (McKenzie) HIGH ABILITY EDUCATION: LB 740 provides that after September 1, 1997, any candidate applying for an entry-level teacher or administrator certificate must have completed 3 credit hours on education for “learners with high ability.” CURRICULUM: The coursework must include instruction on: (1) knowledge of the educational needs of the learner with high ability; (2) knowledge of the identification process of the learner with high ability; and (3) knowledge of various alternatives for teaching learners with high ability in the regular classroom while meeting the needs of their intellectual, creative, or artistic development. ***(No action taken by Education Committee to date)***

### **3. Criminal History**

**LB 148** (Lynch) BUS DRIVERS: This bill involves criminal history investigations for bus drivers (non-teaching employees or employees of a contractor who have direct access to students in a position that involves the operation of a motor vehicle to transport students). NON-MANDATORY: LB 148 does not require such investigations, but does allow a public school district or private school to conduct such investigations as a condition of employment. FINGERPRINTING PROCESS: The investigation is to include fingerprinting and referral of fingerprints to the FBI, Identification Division, and the Nebraska State Patrol. The State Patrol must report to the district requesting the investigation as to whether the applicant sustained any convictions bearing a “reasonable and rational relationship” to employment in a position working with students. The bill provides a laundry list of offenses which bear

#### **LB 148 - Legislative History**

**COMMITTEE ACTION:** advanced to General File on March 6, 1995 (5-0); com. amendment pending

such a relationship. **CONFIDENTIALITY:** All information acquired shall remain confidential. **COM-MITTEE AMENDMENT:** The committee amendment includes the following provisions: (1) adds educational service units to the entities that may require a criminal history check; (2) reports issued by the State Patrol would not be restricted to certain types of offenses; (3) the list of offenses which may bear a reasonable and rational relationship to working with students is deleted; (4) clarification that districts and other entities will pay for the criminal history check; and (5) a new section allows hiring entities to deny employment to applicants convicted of an offense that bears a reasonable and rational relationship to working with students. Finally, the committee amendment provides that in reviewing convictions, employers shall take into consideration: (a) the facts and circumstances surrounding a conviction; (b) the type of offense and sentence; (c) the date of the offense; (d) the age at the time of the offense; and (e) the applicant's conduct and social contributions since the offense. *(Committee amendment pending, AM0744)*

#### 4. Early Childhood

**LB 47** (Schimek) **KINDERGARTEN ENROLLMENT:** LB 47 expands the exceptions to the minimum age for entering kindergarten. Generally school districts cannot admit children unless

they will be at least five years of age on or before October 15th of the school year in question. The current exceptions extend the date to February 1st for children who have attended kindergarten in another jurisdiction in the current school year or whose family anticipates relocating to another jurisdiction during the current school year. LB 47 would extend the date to February 1st for children who demonstrate through testing approved by the State Board of Education that they are capable of carrying the work of kindergarten or the beginner grade. **COMMITTEE AMENDMENT:** The committee amendment replaces recognized testing procedures with recognized assessment procedures for demonstrating that a child is capable of carrying the work of kindergarten. Local school boards will replace the State Board of Education as the entities that approve the recognized assessment procedures. The amendment modifies the existing provisions allowing early entrance into kindergarten for students who will be moving to another jurisdiction by requiring that the other jurisdiction would allow admission of the student and that the admission would occur within the current school year rather than calendar year. *(Committee amendment pending, AM0745; emergency clause attached)*

#### LB 47 - Legislative History

**COMMITTEE ACTION:** advanced to General File on March 6, 1995 (5-2); com. amendment pending

#### 5. Educational Service Units

**LB 733** (Hartnett) **OPT-OUT PROVISION:** LB 733 authorizes a district by a majority board vote to remove itself from an ESU beginning January 1, 1996. If a school district opts to leave an ESU, the affected ESU will lose property for purposes of taxation, which will result in decreased revenue given no increase in the ESU tax levy. The expenditures of the ESU will also decrease by the amount spent to provide services to the district opting for withdrawal. LB 733 was the only one of five ESU bills not indefinitely postponed by the Education Committee in 1995. *(No action taken by Education Committee to date)*

#### 6. Employment Matters

**LB 142** (Beutler) **PREPARATION TIME:** LB 142 originally required districts to provide at least 45 minutes of uninterrupted preparation time during each school day when students

#### LB 142 - Legislative History

**COMMITTEE ACTION:** advanced to General File on April 21, 1995 (5-2); com. amendment pending

are in attendance. An exception was included for districts having less than two teachers. **SECONDARY TEACHERS:** The State Department of Education indicates that most secondary schools currently have planning periods for teachers although some may have planning periods somewhat less than 45 minutes. **COMMITTEE AMENDMENT:** Under the committee amendment, every school district must provide each full-time teacher with preparation time of not less than 200 minutes per five-day week, and each part-time teacher with a proportionate amount of preparation time based upon the fraction of full-time hours for which the part-time teacher is employed. The time may not infringe on the teacher's lunch period, and no teacher may be assigned teaching, supervisory, or other duties during the preparation time. The time will be determined at the local school site by the teachers and administrators. As in the original bill, the provisions do not apply to school district attendance centers having less than two teachers. *(Committee amendment, AM1681)*

**LB 607** (Wesely) **HEARING OFFICERS/TERMINATION PROCEEDINGS:** LB 607 authorizes Class I, II, III and VI districts to use hearing officers to conduct hearings on terminations and cancellations of contracts, for teachers and administrators in lieu of having the local school board conduct the hearings. NDE is required to provide a list of hearing officers for school districts. School boards which opt to use hearing officers will have increased costs to pay the hearing officer. *(No action taken by Education Committee to date)*

**LB 625** (Bohlke) **NEGOTIATION TIMELINES:** LB 625 requires that salary negotiations between teachers and school boards be completed by April 1 for salaries paid in the next school year. If the deadline is not met, then the board is required to file an action with the Commission of Industrial Relations (CIR). **FISCAL IMPACT:** The bill has no definite fiscal impact for the CIR. The potential exists for a workload increase and the need for contractual hearing officers if a significant number of cases are filed at the same time. **BILL INTENTIONALLY HELD:** NCSA, NSEA, and NASB each have a different position with regard to this legislation. Therefore, Senator Bohlke agreed to carry LB 625 over to the next session in order to allow the three groups to work out their differences. This legislation will most likely be advanced to General File in the 1996 session. *(No action taken by Education Committee to date)*

**LB 676** (Wickersham) **EARLY RETIREMENT INCENTIVES:** LB 676 pro-vides that in the reorganization of school districts involving a reduction in force, all certificated employees involved shall have the option to retire under the Retirement Incentive Plan, terminate employment and receive Staff Development Assistance, or remain employed subject to the personnel policies and staffing requirements of the reorganized district. **NOTICE:** Each of the certificated employees will receive a notice in writing at least 30 days prior to the effective date of the reorganization. If the reorganization will involve a reduction in force prior to the effective date, the notice shall be made by March 15. The notice shall include the proposed reorganization, the number of employees to be reduced, and the availability of the Retirement Incentive Plan and Staff Development Assistance. Employees will have 15 days to choose their option. The number of employees using the Retirement Incentive Plan or Staff Development Assistance cannot exceed the reduction in force. Employees will be selected for the options on a first come first serve basis. **QUALIFICATIONS:** To qualify for the Retirement Incentive Plan, employees must be between 55 and 64 years old and have completed five years of creditable service. The payments will equal \$700 for each year of service and will be made in one or two payments. **PROGRAM AVAILABILITY:** The Staff Development Assistance will be available for one year to employees who terminate their employment voluntarily within 15 days of the notice. Staff Development Assistance will consist of two semesters of tuition and a stipend equal to 25% of annual salary or 50% if enrolled and

#### LB 676 - Legislative History

**COMMITTEE ACTION:** advanced to General File on March 22, 1995 (5-0); com. amendment pending

attending a Nebraska state college or university. The stipend will end upon employment of 20 hours per week. COST ALLOCATION: The cost of both plans will be allocated among the reorganized districts based upon the proportion of valuation. Upon approval by the State Board of Education, a district may exceed the applicable allowable budget growth rate by the amount the costs of the Retirement Incentive Plan and Staff Development Assistance exceed the district's applicable allowable growth rate. Payments under the Retirement Incentive Plan and Staff Development Assistance cannot be included in the determination of final average compensation. FEASIBILITY STUDIES: The State Board of Education must adopt regulations for distributing matching funds to contiguous districts for reimbursement of costs of studies for the development and implementation of reorganization plans designed to enhance the educational opportunities and improve cost efficiency. School districts will receive 25% of the cost of the study, but not more than \$2,500. The districts may receive that amount again if the reorganization plan is approved by voters. COMMITTEE AMENDMENT: The committee amendment makes the following changes: (1) excludes the costs of the Retirement Incentive Plan and Staff Development Assistance from general fund operating expenditures; (2) eliminates the maximum age restriction for the Retirement Incentive Plan; (3) provides that the exception to the allowable growth rate will recognize the costs of either program and the excess amount will be based on the costs of either or both programs; (4) provides that notification regarding the reorganization will not occur later than March 15 of the calendar year in which action on the reduction in force will occur; (5) provides that payments under the Retirement Incentive Plan will not exceed \$24,500 for each certificated employee receiving benefits; (6) the provision allowing districts to enter into an agreement on the allocation of all certificated employees is clarified by removing a reference to partial or total allocations and recognizing that there may be more than one reorganized district resulting from the consolidation. APPROVAL PROCESS: The committee amendment also provides that incentive payments must be approved by the State Reorganization Committee. A preliminary approval or disapproval will be issued when the petition is reviewed by the State Reorganization Committee. The preliminary approval or disapproval will be accompanied by a notice about the application procedures. The application will be filed within 30 days after the county superintendent orders the boundary change. The State Reorganization Committee will approve the incentive payments if there was a preliminary approval and there were no material changes in the reorganization plan. For approval, reorganization studies must have been completed dealing with efficiency, population, curriculum, facility, and community issues. The State Reorganization Committee may approve incentive payments if the study was completed and the plan will most likely result in more efficiency or greater educational opportunities. The Committee will have 30 days to approve or disapprove the payments. Incentive payments will be based on the number of students moving to lower cost tiers. The amount of the payments will be determined according to a schedule, which was based on the differences in average tiered costs per pupil for the 1994-95 school year. The payments will be made from the Tax Equity and Educational Opportunities Fund prior to equalization. The payments will not be counted as resources for equalization purposes. *(Committee amendment pending, AM1079; Education Committee priority bill)*

## 7. Miscellaneous

**LB 149** (Lynch) MOTOR VEHICLE REGISTRATION TAX: LB 149 creates and enacts the Comprehensive Rehabilitation and Assistive Technology Act. The bill establishes a \$3.00 tax on each motor vehicle registration issued. Each county retains \$.15 of the tax and \$2.85 is remitted to the Comprehensive Rehabilitation and Assistive Technology Fund which is also created by the bill. ADVISORY COMMITTEE: The legislation creates a 15 member advisory committee which is required to provide technical assistance to the State Department of Education in administering the act. *(No action taken by Education Committee to date)*

**LB 604** (Schrock) COUNTY REORGANIZATION COMMITTEES: This bill

provides that the county reorganization committees must reject petitions and plans for affiliation when 20% or

more of any tract of land under common ownership is not contiguous to the high school district with which affiliation is proposed. The new language would not apply if one or more resident students on the tract of land attended the high school within the last 10 years or the plan would allow preschool-age siblings to attend the high school. **FREEHOLDER STATUTES**: The freeholder statutes are also amended to require a freeholder's land to be contiguous with the district to which the land is attached. **COMMITTEE AMENDMENT**: The committee amendment adds a restriction prohibiting county superintendents from issuing orders changing boundaries relating to affiliation of school districts if 20% or more of any tract under common ownership is not contiguous to the high school district with which affiliation is proposed. However, this rule would not apply if a resident student of the tract has attended the high school program of the high school district within the immediately preceding 10 year period or the order would allow preschool-age siblings to attend the same school as the resident students attended. The amendment also clarifies that Class II school districts that close the high school and become Class I districts must affiliate using the existing affiliation procedures. (*Committee amendment pending, AM0323*)

**LB 604 - Legislative History**

**COMMITTEE ACTION**: advanced to General File on March 22, 1995 (5-1); com. amendment pending

**LB 624** (Education Committee) TECH-NICAL CLEAN-UP BILL:

LB 624 represents the State Department of Education's technical clean-up bill. The bill was originally

comprised of twenty separate and distinct sections. However, a few of these sections have been amended into another bill during the 1995 session. Sections 8 and 9 of the original bill concerned the gun free schools provision of ESEA, and were amended into LB 658 (see page 7, this report). **SECTION-BY-SECTION ANALYSIS**:

**LB 624 - Legislative History**

**COMMITTEE ACTION**: advanced to General File on March 22, 1995 (6-0); amendments pending

**Section 1**: Deletes references to §§79-480 to 79-482 repealed in section 20.

**Section 2**: Includes affiliated Class II-V school districts as affected districts when considering school district boundary changes under the provisions of Section 79-402(2).

**Committee amendment**: The committee amendment further clarifies that boundary changes affect affiliated school systems and that there must be approval from the affected districts. The committee amendment also adds that under Section 79-402(1) when an area is added to a Class II, III, IV, or V affiliated school system or when an affiliated area of a Class I district is taken from an affiliated school system, the high school district, other than a Class VI district, shall be deemed an affected school district. Provisions are already in place for Class VI districts.

**Section 3**: Amends Section 79-407 to provide the specific procedure required of county officials to transfer territory when school boundaries change due to natural causes. The procedure was in Section 79-480, but that section is deleted by the bill.

**Section 4**: Changes the provisions of Section 79-426.15(5) to allow each district, regardless of class, to vote on reorganizations as a separate unit, except that Class I districts which do not have incorporated villages or cities within their boundaries will collectively constitute a single voting unit.

**Section 5**: Clarifies the residency requirements in Section 79-445 to require districts to admit pupils in the physical custody of a resident of the district if the privileges of a free education would be denied and their presence is not for the primary purpose of attending the free public schools in the district.

**Section 6**: Amends Section 79-451 to eliminate collection of information available from

another source and to eliminate collection of data not currently used by NDE.

**Section 7:** Amends Section 79-488 to allow NDE to change the position of placement of the inspection sticker on the window of pupil transportation vehicles.

**Section 8:** *Merged into LB 658*

**Section 9:** *Merged into LB 658*

**Section 10:** Amends Section 79-501 by changing the date of the Class I and Class II Annual Meeting to the third rather than the second Monday in August.

**Section 11:** Replaces the requirement for Class III districts to print their entire budget in a newspaper with a requirement for printing the fund summary pages of the budget.

**Section 12:** Adds the personal property tax reimbursement fund to the list of all other school district funds in Section 79-1384 from which a school district may borrow.

**Section 13:** Amends Section 79-2201.01 to allow ESUs to sell real and personal property with an affirmative vote of at least two-thirds of all members of the board.

**Section 14:** Amends Section 79-3406 to set a statewide application deadline of March 1 for the Enrollment Option Program applications. Districts would be allowed to extend the date, but not beyond the first day of school. This section also allows the designation of school administrators to implement school board policy on acceptance or rejection of applications. **Committee amendment:** The committee amendment clarifies that the extension could not go beyond the first day of the school year.

**Section 15:** Amends Section 79-3409 to provide a local option to extend the deadline until the first day of school for Option Enrollment applications. A 30 day grace period for parents who move residences is also added. **Committee amendment:** The amendment clarifies that applications must be made to the school board of the option school district.

**Section 16:** Eliminates a reference to rapid growth in Section 79-3807.

**Section 17:** Amends Section 79-3815 to require the State Auditor to consult with NDE prior to making necessary changes in the budget documents for districts to effectuate the budget limitations.

**Section 18:** Reduces the requirement in Section 79-3817 that the applicable allowable growth rate be carried out to four decimal places from the current eight decimal places.

**Section 19:** Repealer section.

**Section 20:** Repeals Sections 79-478 to 79-485. These sections allowed the transfer of land to an adjoining district for the purpose of educating children in that district.

**COMMITTEE AMENDMENT:** In addition to the changes noted in various sections above, the committee amendment also adds a new section to modify sections 32-542 and 79-701 to move the election of Class II school board members from the primary to the general election. The members would take office at the first regular meeting of the board in January, rather than on the first Tuesday in June. The terms of board members holding office on the effective date of the bill will be extended to the first regular meeting in January following the statewide general election. A provision requiring the school year to begin on the day of the first meeting of the board following the election for Class I and II districts is deleted from Section 79-501. **HARTNETT AMENDMENT:** At NCSA's request, Senator Hartnett filed an amendment to merge the contents of LB 708 into LB 624 (see page 24, this report) **SCHIMEK AMENDMENT:** Senator Schimek filed an amendment to merge the contents of LB 47 into LB 624 (see page 16, this report). (**Committee amendment pending, AM0756; Education Committee priority bill; Hartnett amendment pending, AM1369; Schimek amendment pending, AM1484**)

**LB 716** (Wickersham) LANDS AND FUNDS: LB 716 requires the Board of Educational Lands and Funds

### LB 716 - Legislative History

**COMMITTEE ACTION:** advanced to General File on March 22, 1995 (7-0); com. amendment pending

to reinvest funds from the sale of real property back into real property. In-tent language establishes a policy for Nebraska that lands and funds belonging to the state for educational purposes be managed to provide a prudent balance between risk and rate of return. BOARD MEMBERSHIP: The membership of the Board is redistributed to represent current congressional districts, rather than those existing in 1961. The current language requires one member to be competent in the field of investments. That requirement is replaced with specifications for a member who is competent in commercial land investments and a member who is competent in agricultural land investments. ADMINISTRATION COSTS: Section 72-232.02 is amended to clarify that the costs of administering school lands will apply to school lands used for agricultural, commercial, industrial, and residential purposes. Deposits to the cash fund to pay those costs will be the amount necessary to pay such costs, not an amount appropriated by the Legislature. SELLING LANDS: Section 72-257 is amended to provide that the Board may sell a portion of all lands owned as of January 1, 1995 or acquired after that date and may reinvest the proceeds as provided in this bill. The board will determine what land to sell by considering all relevant factors and the priorities in Section 72-257.01. The sales will be made at the end of existing surface leases. The current statute allows the sale of lands at the expiration of the present leases and does not address reinvestment or reference the priorities. A new subsection is added to Section 72-257.01. The new subsection provides that land sold shall provide sufficient proceeds for reinvestment so as to provide a prudent investment portfolio of agricultural real property and developed or undeveloped industrial, commercial, or residential real property, balancing risk and rate of return. The board shall consult with an independent expert before the initial diversification of the educational lands portfolio and may consult for subsequent diversification decisions. PURCHASING LAND: The Board will be able to reinvest by purchasing agricultural property and developed or undeveloped industrial, commercial, or residential real property located in Nebraska. The board will determine what to purchase based on all relevant factors, including market conditions, present and future earnings and appreciation potential, and a prudent balance between risk and rate of return. The property purchased shall be of the nature which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another on a fiduciary basis. The property shall be held, managed, and administered by the board in trust for the support and maintenance of the common schools in the same manner as all other educational lands. After purchase, the board will classify all educational lands according to use. LENGTH OF LEASES: Section 72-258.01 is amended by extending the length of leases offered for lands that are not sold. Currently the leases are for 3 to 8 years. The amendment provides for leases that are for 5 to 12 years for agricultural land. Leases for undeveloped commercial, industrial or residential land will be for 10 to 40 years. Leases for developed commercial, industrial, or residential land will be for no more than 40 years. The Board shall determine the length of leases. STATE INVESTMENT OFFICER: Section 72-259 is amended to provide that any money from the proceeds of the sales available for investment will be invested by the state investment officer until investment by the board pursuant to this act. Section 72-241 is amended by deleting provisions dealing with conditional assignments of sale contracts. DETERMINATION OF USE: New provisions direct the Board to determine the use for which the lease is intended, determine the requirements for construction to encourage the highest and best use, determine the rental rate based upon the minimum annual rental rate and the fair market rental value, determine the minimum term of the lease to assure a fair return, prescribe appropriate terms and conditions of the lease, and adopt rules and regulations. These requirements are to be complete before notice is given for the leasing of educational lands. PUBLIC AUCTION: The Board is authorized to lease lands at public auction for commercial, industrial, or residential purposes to obtain a fair market rental return. Notice will be published 3 weeks prior to the auction in at least one newspaper of general circulation in the county where the land is located. Those seeking to lease educational lands for commercial, industrial, or residential purposes will apply to the Board. The application will contain an affidavit that the applicant will lease and operate such land for the applicant's own use and benefit, will not sub-

lease without written approval, will not commit waste or damage, and will not permit others to do so. The Board reserves the right to reject all applications and re-offer the tract if bids are below an annual rate of six percent or unacceptable to the Board. RATES AND APPRAISAL: The Board shall lease land for commercial, industrial, or residential use at an annual rental of at least 6% of the appraised rental value. The land will be appraised in accordance with Sections 72-204 and 72-205 and the Board will determine the appraised rental value. The board may reappraise lands whenever the Board deems to be for the best interest of the state. The lease may be forfeited and fully set aside if rent is one month late. If rent is not paid by the due date, interest will be assessed at an annual interest rate of nine percent until paid. LEASE SPECIFICATIONS: Every lease for commercial, industrial, or residential purposes shall contain the legal description, the proposed specific use of the land, any improvements required and the entity responsible for the improvements, the term of the lease, the rental rate, a provision that the lessee will not sublease or otherwise dispose of the land without written consent and will not commit waste or damage the land and will not permit others to do so, and other terms and agreements. Section 79-1303 is amended to provide that county superintendents will certify the taxable value of school lands, rather than the appraised value. COMMITTEE AMENDMENT: The committee amendment replaces the term “certify” with the term “verify” in the requirement for the county superintendents regarding information about the school district’s tax levy and the taxable value for school lands. Within that requirement, the amendment adds a responsibility for the county superintendent to verify the school district identification number of each school district, Class VI school systems, and affiliated school systems for each parcel of school land. *(Committee amendment pending; AM1080)*

**LB 818** (Hall) CHARTER SCHOOLS: LB 818 would enact the Charter Schools Act. The bill allows a school board to sponsor up to a maximum of five charter schools. If school boards elect not to sponsor an applicant for a charter school, then NDE may sponsor the charter school. APPROVAL BY NDE: NDE is required to approve authorization for charter schools and to hear appeals regarding the decision to terminate charter schools. Charter schools are exempt from rules and regulations governing public schools. Employees of charter schools may participate in the State School Retirement System. NDE is required to disseminate information on how to form and operate a charter school. Reports on the effectiveness and establishment of charter schools are required in 1998 and 2000 by NDE. RESTRICTIONS: Charter schools may not levy taxes but are authorized to receive operating funds through the budget of a sponsoring school. AID: School districts which sponsor charter schools will have decreased revenue and expenditures in the amount that is transferred to the charter school for its operation and the amount of state aid and special education aid allocated to the charter school. NAMES ADDED TO BILL: Since the hearing on LB 818, Senators Bohlke and McKenzie have added their names to the bill. This may mean that the bill could be advanced in the 1996 session. *(No action by the Education Committee to date)*

## 8. School Finance

**LB 349** (Robak) INCOME FACTOR: LB 349 amends the Tax Equity and Educational Opportunities Support Act to use an income factor to adjust the valuations used in computing state aid under the Act. FORMULA VALUATION: Formula valuation replaces adjusted valuation for calculating the local effort rate and the local effort rate yield in Section 79-3806. Formula valuation is defined as a district’s adjusted valuation multiplied by the district income factor. The district income ratio is defined as the ratio of the district adjusted gross income per return divided by the state adjusted gross income per return. District adjusted gross income per return is defined as the total Nebraska individual adjusted gross income reported on returns by residents of a school district divided by the

### LB 349 - Legislative History

COMMITTEE ACTION: advanced to General File on March 16, 1995 (5-2); com. amendment pending

total number of returns filed by residents of that district for the second preceding year. COMMITTEE AMENDMENT: The committee amendment incorporates the provisions of LB 526 with the original provisions of LB 349. The LB 526 provisions amend Section 79-3804 to cap the amount that any school district receives from allocated income tax funds, depending on how a preliminary calculation of the local effort rate yield compares to the district's formula need. For allocations beginning with the 1996-97 fiscal year, the certified allocation income tax liability will represent a preliminary allocation. Using the preliminary allocations, the Department of Education will calculate a preliminary local effort rate yield for each district. If a district's preliminary allocation of the income tax funds plus the district's preliminary local effort rate yield exceeds 65% of the total formula need, the preliminary allocation will be reduced so that the district's allocation of income tax funds plus the preliminary local effort rate yield equals 65% percent of the need. Districts with a preliminary local effort rate that equals or exceeds 65% of formula needs will not receive any allocated income tax funds. The allocations are then finalized and the funds that are not allocated will be used for equalization. No subsequent adjustments to the allocated income tax funds will be allowed. *(Committee amendment pending, AM1024)*

**LB 543** (Beutler) TIER BILL: LB 543 modifies the tier structure in the Tax Equity and Educational Oppor-tunities Support Act by amend-

ing §79-3805. In the elementary school tiers, the minimum Average Daily Membership (ADM) for tier 7 is lowered from 15,000.01 to 10,000.01. The maximum for tier 6 is lowered from 15,000 to 10,000. Corresponding to the other changes, the midpoint for tier 6 is lowered from 8,450 to 5,950. In the high school tiers, the minimum ADM for tier 9 is lowered from 10,000.01 to 6,000.01. The maximum for tier 8 is lowered from 10,000 to 6,000. Corresponding to the other changes, the midpoint for tier 8 is lowered from 5,500 to 3,500. COMMITTEE AMENDMENT: The committee amendment to LB 543 replace the original sections with amendments to Section 79-3805 adjusting two districts tiered cost per student if there is only one district in elementary tier 7 and high school tier 9 and the tiered costs per student are greater than the average tiered costs for the next lower tier. The two districts to be adjusted would be the single district in the highest tier for each grade range and the district with the highest ADM in the next lower tier for each grade range. The total of the tiered cost per student multiplied by the average daily membership for both districts will be divided by the total ADM for both districts. The result will be the new tiered cost per student for both districts. The tiered costs for 7th and 8th grades will be based on the adjusted costs for the districts with adjustments. *(Committee amendment pending, AM0527; Speaker priority bill)*

### LB 543 - Legislative History

COMMITTEE ACTION: advanced to General File on March 16, 1995 (6-0); com. amendment pending

**LB 622** (Education Committee) STATE AID FORMULA: LB 622 changes the formula used to calculate state aid. After a two-year phase-in, the bill treats regular student transportation expenses and K-12 special education programs and transportation costs as items to be calculated separately from other school costs to determine the needs and target budgets for districts for state aid purposes. Section 7 adds an additional calculation to determine formula need for at-risk students. Section 8 phases-in the new calculation basis during 1995-96 and 1996-97 with full implementation of the changes in computing district needs scheduled to occur in 1997-98. REPROGRAM FUNDING: NDE will have increased expenditures in 1995-96 of \$15,500 to reprogram the state aid computation. This figure includes expenses to incorporate new data elements in the aid calculation, increase data storage capacity and modify some data collection forms. Increased expenditures of \$2,500 are also projected in 1996-97 for computer processing related to the phase-in of the new distribution method. EQUALIZATION AID: Districts that are eligible for equalization aid and which end up with greater needs due to higher than typical costs for transportation, special education and at-risk students in comparison to other districts of similar size, will receive additional equalization aid. In some cases, non-equalization districts may also qualify for equalization aid due to higher than typical costs in these areas. *(No action taken by Education Committee to date)*

**LB 670** (Withem) DISTRIBUTION OF ALLOCATED INCOME TAX FUNDS: LB 670 changes the distribution of allocated income tax funds in the state aid to education formula. Instead of an allocation based on the proportional amount of income tax liability a district has to other districts, the required allocation in LB 670 is based upon applying an income adjustment factor to equalize the differences in income between districts. The bill also gradually phases out the income tax rebate from 1996-97 through 1998-99 and shifts the aid to equalization. In 1999-2000, the income tax rebate is totally eliminated, but districts are still accountable for the full (20%) of the rebate which has been shifted to equalization. FISCAL IMPACT: The bill will have a General Fund fiscal impact of \$5,500 in 1995-96 and \$1,875 in 1996-97 to change a computer program used to distribute state aid, modify state aid reports and provide additional data storage capacity. DUTIES OF REVENUE DEPARTMENT: Section 4 requires the Department of Revenue to provide federal adjusted gross income by district and the number of filers to NDE. The agency indicates there will be no fiscal impact to provide this information. IMPACT OF BILL: The effect of the bill will be to shift state aid between school districts. In general, districts currently receiving equalization aid will receive additional funds and districts receiving only rebate funds will receive less. As more funds are added to equalization aid, the lowering of the local effort rate may allow some rebate only districts to receive additional aid. **(No action taken by Education Committee to date)**

**LB 845** (Bohlke) DISTRICT AUDITS: LB 845 amends §79-4,141.01 to allow the State Auditor to perform the annual examination of school district financial records. Currently, only public accountants and certified public accountants may perform the reviews. CLASS I DISTRICTS: Section 84-304 is amended to include Class I school districts in the list of entities whose records may be examined by the Auditor at the entity's request. The expense for the audit of a Class I school district conducted at the request of the district will not exceed one percent of the district's budget for the fiscal year being audited. COMMITTEE AMENDMENT: The committee amendment clarifies that only Class I school districts may choose to have the State Auditor perform the annual examination of school district financial records. The provisions limiting the expense of the audit are also eliminated. **(Committee amendment pending, AM1078)**

**LB 845 - Legislative History**  
**COMMITTEE ACTION:** advanced to General File on March 22, 1995 (6-0); com. amendment pending

## 9. Student Discipline

**LB 708** (Hartnett) OPTION RESTRICTIONS: LB 708 amends the provisions for the acceptance of option students by removing eligibility for students who have had proceedings initiated against them that might result in a long-term suspension or expulsion. The students would be ineligible for the option program during the time the proceedings are pending and during the time of any long-term suspension or expulsion imposed on the student by the resident district. STANDARDS FOR ACCEPTANCE: The bill also amends the provisions that outline areas where standards for acceptance of option students may be established to include disciplinary actions or proceedings current at the time of application. COMMITTEE AMENDMENTS: The committee amendment deletes the changes that would disqualify students from the option program for disciplinary reasons, but retains the authority for districts to adopt acceptance standards based on current disciplinary actions or proceedings. Current sanctions are also added as a basis for acceptance standards. **(Committee amendment pending, AM0758)**

**LB 708 - Legislative History**  
**COMMITTEE ACTION:** advanced to General File on March 7, 1995 (6-0); com. amendment pending

### III. Other Carryover Legislation

#### A. Overview

COMMITTEE	BILL NO.	BILL DESCRIPTION	CHIEF SPONSOR	STATUS	PG. NO.
GOVERNMENT	LB 789	Amend the Public Records Act	Bohlke	Held on General File	25
JUDICIARY	LB 320	Create the Student Expression Act	Beutler	Held in committee	26
	LB 678	Relating to firearm on school grounds	Hartnett	Held in committee	26
	LB 859	Parental notification/judicial waiver	Bohlke	Held on General File	26
RETIREMENT	LB 130	Factor multiplier increase to 1.80	Wickersham	Held on General File	26
	LB 419	Buy-back for non-certified employees	Crosby	Held in committee	27
	LB 562	Change duties of the PERB	committee	Merged into LB 369	27
	LB 700	New School Employees'COLA	Wickersham	Held on General File	27
	LB 723	Statutory employee contribution rate	Pedersen	Held in committee	28
REVENUE	LB 745	Create sales tax on food	Warner	Held in committee	28
	LB 790	School Aid Trust Fund	Warner	Held in committee	28
TRANSPORTATION	LB 132	School crossing zones	Robak	Held on General File	28

#### B. In-depth Review (Other Carryover Legislation)

##### 1. Government, Military and Veterans Affairs Committee

##### **LB 789** (Bohlke) PUBLIC RECORDS ACT

Section 1 of LB 789 amends 84-712.05 to provide that materials submitted by applicants who are being considered for employment

by the state or any political subdivisions may remain confidential while the applicants are under consideration. PUBLIC MEETINGS ACT: Section 2 amends 84-1410 to provide that the governing body of a political subdivision may hold a closed session to discuss applicant interview questions, materials, or other documents that may be used during the interview process. In addition, this section is amended to allow the actual interview to be held in a closed session. COMMITTEE AMENDMENT: The committee amendment becomes the new version of LB 789. It amends section 84-712.05 to provide that job application materials sub-

##### **LB 789 - Legislative History**

*COMMITTEE ACTION*: advanced to General File on March 21, 1995 (5-2); com. amendment pending

mitted by applicants for employment by any public body may remain confidential. This provision does not apply to finalists. A finalist is defined as an applicant who is offered and accepts an interview for the position. Job application materials means applications, resumes, reference letters and school transcripts. *(Committee amendment pending, AM0868)*

## 2. Judiciary Committee

**LB 320** (Beutler) STUDENT FREEDOM OF EXPRESSION ACT: LB 320 is the Student Freedom of Expression Act. The bill requires public school boards to adopt a written publications code with provisions for the time, place and manner of conducting free speech activities and student publications. The board is required to make the code available to students and parents. *(No action taken by Judiciary Committee to date)*

**LB 678** (Hartnett) FIREARMS ON SCHOOL GROUNDS: At the time of passage of LB 988 (1994), the juvenile crime bill, it was believed by many that, under its provisions, firearms could be used in the classroom for instructional purposes without violating the law. Confusion has persisted with regard to this issue. DISPLAY OR EXHIBITION: Therefore, Senator Hartnett introduced LB 678 to permit display or exhibition of firearms on school grounds. The bill provides that firearms, while on school grounds for purposes of display or exhibition, must remain unloaded and not discharged. The firearm must remain in the immediate custody of an adult lawfully entitled to be in possession of the weapon. NCSA was the only education organization to appear in support of this legislation. *(No action taken by Judiciary Committee to date)*

**LB 859** (Bohlke) PARENTAL NOTIFICATION: LB 859 requires each school district to post in a prominent location a toll-free number to the Department of Health. The posting must be available to all students in grades 7 through 12. TOLL-FREE NUMBER: The toll-free number would provide information explaining the state law on parental notification as a condition for a minor to obtain an abortion. The information available would also explain the provisions providing for a judicial waiver for those persons who wished to obtain an abortion without notifying a parent. INFORMATION PROVIDED: LB 859 provides that the requirements of the section detailing the information available on the toll-free line be narrowly construed to provide only the information required by the bill. The information would not require the department to provide specific information on how students may utilize the judicial by-pass. The Department of Health would work with the Commissioner of Education to develop and approve the information to be provided. REPEALER: The bill repeals outright section 71-6909 which provides that all school districts supply each student in grades 7 through 12 information on the state's parental notification law and 48 hour waiting period. COMMITTEE AMENDMENT: The committee amendment clarifies that the toll-free telephone number to the Department of Health will be for the exclusive purpose of providing the information of parental notification as a condition for obtaining an abortion. BOHLKE AMENDMENT: The Bohlke amendment simply states that the toll-free number must remain posted throughout the year. The assumption is that this language infers calendar year not school year. *(Committee amendment pending, AM0487; Bohlke amendment pending, AM0766)*

### LB 859 - Legislative History

**COMMITTEE ACTION:** advanced to General File on Feb. 21, 1995 (6-0); amendments pending

## 3. Retirement Systems Committee

**LB 130** (Wickersham) FACTOR INCREASE: LB 130 increases the formula annuity factor under the School Employees Retirement System from 1.73% to 1.80%. To receive a

### LB 130 - Legislative History

**COMMITTEE ACTION:** advanced to General File on Feb. 13, 1995 (5-1)

retirement benefit calculated with the 1.80% factor, a member must have acquired the equivalent of 1/2 year of service or more (516 hours or more) as a public school employee under the retirement system following July 1, 1995. Emergency clause attached. POTENTIAL AMENDMENT: LB 130 was drafted with the intent of passing in the 1995 Legislative Session. If the bill is to pass in 1996, the language will have to be amended to make current any references to activation dates.

**LB 419** (Crosby) BUY-BACK FOR NON-CERTIFIED EMPLOYEES: LB 419 would provide a buy-back for non-certified employees in the School Employees Retirement System. Under this bill, qualified individuals may buy-back up to ten years of service by paying the employee share plus interest for those years of service. **(No action by Retirement Committee to date)**

**LB 562** (Retirement Committee)

DEFINE COMPENSATION: LB 562 de-fines compensation for all five Nebraska retirement systems and specifies amounts which are not included. LB 562 places in statute the compensation limitation (\$150,000) required for qualified plans pursuant to section 401(a)(17) of the Internal Revenue Code and provides a grandfather provision for employees who became members before the first plan beginning after 12/31/95. Such grandfather is at the rate in effect on 7/1/93, which is \$235,840 (\$200,000 as adjusted). LB 562 also amends the State Patrol and Judges plans so that benefits are calculated on the 3 highest years (versus the 3 last years), which conforms to the School Employees plan. AMENDED INTO LB 369: The contents of LB 562 were amended into LB 369 which was passed and signed into law (see page 4, this report).

#### LB 562 - Legislative History

**COMMITTEE ACTION**: advanced to General File on Feb. 13, 1995 (6-0); merged into LB 369

**LB 700** (Wickersham) NEW COLA:

LB 700, as originally submitted, establishes a 50% restoration of purchasing power cost-of-living adjustment (COLA) in each of the three defined benefit retirement systems. The COLA would be activated when the value of members retirement benefits dropped below 50% of the purchasing power of those benefits at retirement. FUNDING SOURCE: Funding of the COLA under LB 700 is provided through state contributions only, which would commence with FY 1996-97. The intent of LB 700 for the School Employees Retirement System is to utilize the money currently allocated under the HELP Act to fund the COLA for the School Employees Retirement Systems. Since the Omaha Public School District is not covered by the School Employees Retirement System, a provision is included in LB 700 for the state to contribute to the Omaha School Employees Retirement System a percent of covered payroll equal to the percent contributed under the School Employees Retirement System to fund the COLA provided in LB 700. IMPORTANT DEVELOPMENT: Under an amendment filed by Senator Wickersham on May 22, 1995, the 50% restoration of purchasing power COLA would be replaced by a delayed annual COLA. Under the new plan, members would not receive any COLA benefit for the first five years after retirement. After the five-year period, the member's retirement benefit would receive a .31% annual adjustment. The reason for this change is the insufficient funding for the original COLA concept. Under the original version of LB 700, the HELP funds would not have been sufficient to cover the cost of the new COLA. Under the new COLA proposed by Senator Wickersham, the \$6,895,000 currently appropriated to the HELP Act would be sufficient to cover the cost. The new date of implementation would be changed from January 1, 1996 to July 1, 1996 under the Wickersham amendment. **(Wickersham amendment pending, AM2358)**

#### LB 700 - Legislative History

**COMMITTEE ACTION**: advanced to General File on Feb. 13, 1995 (5-1); amendments pending

**LB 723** (Pedersen) SET CONTRIBUTION RATE: LB 723 increases the member contribution rate in the Nebraska School Employees' Retirement Plan to either 8% of pay, or 49.75% of the funding rate set by the actuary, whichever is greater. CURRENT RATE: The current contribution rate by the school members is 7.31%, and the rate contributed by school districts is 7.38% (beginning in FY 95-96). This bill would increase that rate by .69% for members to 8% and by .7% for school districts to 8.08%. (The school district or employer rate is set at 101% of the employee rate.) INCREASED MEMBER CONTRIBUTIONS: Based upon a covered payroll of \$744,438,556, the bill would result in additional total member contributions of \$5,136,626 and additional total employer (school district) contribution of \$5,211,070 in the first year. IMPORTANT NOTE: The concept of a statutorially set employee contribution rate may re-appear in the 1996 Legislative Session in the form proposed under LB 723 or some variation thereof. **(No action by Retirement Committee to date)**

#### 4. Revenue Committee

**LB 745** (Warner) FOOD SALES TAX: LB 745 imposes a sales tax on food and gives income tax credits as specified in the bill. It has been the Legislature's intent that all revenue associated with the 1¢ increase in the sales tax rate and all revenue associated with the increase in the income tax rate by the enactment of LB 1059, 1990, be dedicated to the Tax Equity and Educational Opportunity Act (state aid to schools). Therefore, state aid to schools may increase by \$17.8 million in FY 1995-96 and \$25.8 million in FY 1996-97. Municipalities that levy a local sales tax could see increased revenues of \$18 million in FY 1995-96 and \$30 million in FY 1996-97. **(No action by Revenue Committee to date)**

**LB 790** (Warner) SCHOOL AID FUND: LB 790 creates the School Aid Fund to be used to fund appropriations for state aid to schools which are currently made from the General Fund. To accomplish this, the existing sales and income tax rates are split into the following proportions starting January 1, 1996:

	TAX RATES		% OF REVENUE	
	SALES	INCOME	SALES	INCOME
General Fund	3.25%	2.50%	65.0%	67.6%
School Aid Fund	1.75%	1.20%	35.0%	32.4%
Existing Rates	5.00%	3.70%	100.0%	100.0%

The corporate income tax would also be split in the same proportion as the individual income tax. Also, all miscellaneous receipts would continue to be credited to the General Fund. **(No action by Revenue Committee to date)**

#### 5. Transportation Committee

**LB 132** (Robak) SCHOOL CROSSING ZONES: Section 4 of LB 132 enacts a new provision of law which provides that the term school crossing zone shall mean the area of a roadway designated as a school crossing zone through the use of a sign or traffic control device. School crossing zone shall not include any area of a freeway. Sections 5, 6, and 7 enact new provisions of law which provide that any person convicted of speeding, failing to yield to pedestrian, or passing another vehicle when such offenses occur in a school crossing zone shall be guilty of a traffic infraction and shall be fined twice the amount provided for in statute or any applicable city or village ordinance.

#### LB 132 - Legislative History

**COMMITTEE ACTION:** advanced to General File on Feb. 24, 1995 (5-2); amendments pending

## **IV. Constitutional Resolutions**

(passed and carryover constitutional amendments)

### **1. Passed and Presented to Secretary of State**

**LR 1CA** (Landis) BINDING ARBITRATION: This resolution is identical to LR 2CA introduced in 1993 and passed by the Legislature. LR 1CA would place before the voters a constitutional amendment authorizing the Legislature to enact legislation providing for the enforcement of decisions made as a result of mediation, binding arbitration, and other forms of dispute resolution entered into voluntarily and not revocable except as provided by law or equity. The proposed amendment would appear on the general election of November, 1996. The amendment would provide Nebraska citizens with the right to enter binding agreements to arbitrate as exists in other states and under the Federal Arbitration Act. MEDIATION STATUTES: The Legislature adopted mediation statutes through the passage of LB 90 in 1991. Those passages provide for mediation centers, qualifications of mediators, confidentiality, immunity for mediators from liability, the enforceability of mediation agreements, etc. ***(Passed and presented to Secretary of State on February 10, 1995)***

**LR 3CA** (Kristensen) TAX COMMISSION: LR 3CA would place before the voters in November, 1996, a proposal to amend Article VIII, section 28 of the Nebraska Constitution to replace the State Board of Equalization with an appointed Tax Equalization and Review Commission (TERC). Currently, the State Board is responsible for equalizing property assessments. Under LR 3CA, the TERC would have this authority as well as jurisdiction over tax disputes as provided by the Legislature. COMMITTEE AMENDMENT: The committee amendment strikes the direct reference to the TERC having jurisdiction over tax disputes. The amendment also reinserts the Tax Commissioner as a constitutionally required position. ***(Passed and presented to Secretary of State on June 1, 1995)***

**LR 21CA** (Pirsch) VICTIMS RIGHTS: LR 21CA would place before the voters in the general election of November, 1996 a constitutional amendment that would entitle crime victims, as defined by law, certain rights. These rights include: 1) The right to be informed (notified) of all criminal proceedings at which the defendant has the right to be present; 2) To be present at such proceedings; 3) To make an oral or written statement at sentencing, dispositions and parole hearings; and 4) To obtain restitution from the convicted perpetrator or perpetrators of the crime that caused the loss. LR 21CA allows the Legislature to pass a law that would provide for an assessment against convicted defendants to provide restitution to crime victims. The amendment also bars the use of the Act as a basis for error in favor of the defendant, or as a basis to contest a charge. ***(Passed and presented to Secretary of State on March 14, 1995)***

### **2. Carryover Constitutional Resolutions**

**LR 25CA** (Coordsen) UNFUNDED MANDATES: A constitutional amendment proposed by Senator Coordsen would finally eliminate unfunded mandates by the Legislature to political subdivisions. LR 25CA would amend Article III, section 22, relating to appropriations, to state that if the Legislature requires any political subdivision to expand or create a service or program, then it must provide the funds necessary to back it up. The exception to this rule would be if a class of political subdivisions, themselves, request the Legislature to create or expand a service or program. In these cases, the Legislature would not be obliged to appropriate the funds. ***(No Action taken by Appropriations Committee to date)***

**LR 29CA** (Bohlke) BOARD OF REGENTS: LR 29CA is a constitutional amendment to provide for appointment of members of the Board of Regents of the University of Nebraska by the Governor. **(No action taken by Education Committee to date)**

**LR 33CA** (Robinson) STATE BOARD OF EDUCATION: LR 33CA amends Article VII, section 3 of the Nebraska Constitution to state that a member of the State Board of Education shall not be a member of a school board or board of education. Currently, members of the State Board can not be actively engaged in the educational profession. COMMITTEE AMENDMENT: The Committee amendment strikes the requirements that State Board members not be actively engaged in the educational profession and not be a member of a school board or board of education. Those provisions are replaced by a requirement that State Board members shall have qualifications as prescribed by the Legislature. **(Advanced to General File on February 9, 1995; speaker priority)**

**LR 47CA** (Hall) STATE BOARD OF EDUCATION: LR 47CA represents a constitutional amendment to provide for appointment of the members of the State Board of Education and Commissioner of Education by the Governor. **(No action by the Education Committee to date)**

**LR 93CA** (Warner) CONSTITUTIONAL LEVY LID: The amendment would implement a constitutional levy lid for all political subdivisions. Under the proposal, the combined levies of all political subdivisions cannot exceed \$2.00 per one hundred dollars of the actual market value of the taxable property subject to the levies. MAXIMUM LEVIES: The measure specifies the following levy limitations (maximum levies) for each classification of political subdivision:

Primary and secondary educational systems .....	\$1.00
Counties .....	.30
Community colleges .....	.07
Natural resources districts .....	.03
Cities and villages .....	.50
Rural or suburban fire protection districts .....	.10
<b>Total.....</b>	<b>\$2.00</b>

The Revenue and Education Committees plan to conduct a series of hearings on LR 93CA prior to the 1996 Legislative Session. **(No action by the Revenue Committee to date)**

**First Session, 94th Legislature, 1995**  
**Vote Record**

(Final Reading votes; selected education-related bills; all bills passed and signed)  
*prepared by the Research Council of School Administrators*

Senator	Dist.	LB 365 Special Master	LB 613E Lid. Reduction	LB 742E Special Education	LB 840E Reorganization	LB 860 Internet Grants
Abboud, Chris	12	yes	yes	yes	yes	no
Avery, Michael	3	yes	yes	yes	yes	no
Bernard-Stevens, David	42	yes	no	yes	yes	yes
Beutler, Chris	28	yes	yes	yes	no	no
Bohke, Ardyce	33	yes	yes	yes	yes	yes
Brashear, Kermit	4	yes	yes	yes	yes	yes
Bronna, Curt	23	no	yes	yes	yes	no
Brown, Pam	6	yes	yes	yes	yes	yes
Chambers, Ernie	11	excused	no	not voting	not voting	yes
Coordesa, George	32	no	yes	yes	yes	no
Crosby, LaVon	29	not voting	yes	no	yes	yes
Cudaback, Jim	36	yes	not voting	yes	yes	no
Day, Connie	19	yes	yes	yes	yes	yes
Dierks, Merton	40	no	no	yes	yes	no
Elmer, Owen	44	no	yes	yes	yes	yes
Engel, Pat	17	not voting	yes	yes	yes	yes
Fisher, Dan	35	yes	yes	yes	yes	yes
Hall, Tina	7	yes	yes	yes	yes	yes
Hartnett, Paul	45	yes	yes	yes	yes	yes
Hilburn, Joyce	48	excused	yes	yes	yes	excused
Hudkins, Carol	21	not voting	no	yes	yes	yes
Janssen, Ray	15	no	no	yes	yes	yes

Senator	Dist.	LB 365	LB 613	LB 742	LB 840	LB 860
Jensen, Jim	20	no	yes	yes	yes	no
Jones, Jim	43	no	no	yes	yes	excused
Kristensen, Doug	37	no	yes	yes	yes	yes
Landis, David	46	yes	no	no	yes	yes
Lindsay, John	9	yes	yes	yes	yes	no
Lynch, Dan	13	yes	no	yes	yes	yes
Matake, Gerald	47	yes	yes	yes	yes	yes
Maunula, Dave	30	no	yes	yes	yes	yes
McKenzie, Jan	34	yes	yes	yes	yes	yes
Federesen, Dwayne	39	yes	yes	yes	yes	yes
Firech, Carol McBride	10	no	yes	yes	yes	no
Freister, Donald	5	yes	yes	yes	yes	no
Kobak, Jennie	22	no	yes	yes	yes	no
Robinson, Bud	16	no	yes	yes	yes	yes
Schellpeper, Stan	18	no	no	yes	yes	yes
Schmeck, DiAnna	27	yes	not voting	yes	yes	yes
Schmitt, Jerry	41	no	no	yes	yes	no
Schrock, Ed	38	no	no	yes	yes	yes
Stuhr, Elaine	24	no	yes	no	yes	yes
Vrtniska, Floyd	1	yes	yes	yes	yes	yes
Warner, Jerome	25	yes	yes	yes	yes	yes
Wehrlein, Roger	2	yes	yes	yes	yes	yes
Wesley, Don	26	yes	yes	yes	yes	no
Wickerham, Bob	49	yes	yes	yes	yes	no
Wall, Eric	6	yes	yes	yes	yes	yes
Witek, Kate	31	no	yes	yes	yes	no
Withem, Fou	14	yes	yes	yes	yes	yes
<b>TOTALS (yes-no-not voting-excused)</b>		<b>27 - 17 - 3 - 2</b>	<b>35 - 11 - 2 - 0</b>	<b>45 - 3 - 1 - 0</b>	<b>47 - 1 - 1 - 0</b>	<b>31 - 16 - 0 - 2</b>