

Nebraska Council of School Administrators

NCSA Final Legislative Report
98th Legislature, Second Session

Convened, January 7, 2004
Adjourned Sine Die, April 15, 2004

Submitted
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I. Overview

State Fiscal Status. The 2005-07 biennium budget deficit currently stands at \$294,814,476. The nuclear waste compact judgment accounts for approximately \$160 million of this amount.

The next meeting of the Economic Forecast Board will be in October 2004. Depending upon the economic news at the time of its next meeting, the board will either lower or increase state revenue projections. These new projections will have a corresponding effect on the magnitude of the budget issue facing the Legislature in the 2005 Session.

Certified and Projected State Aid. What follows is the most recent certified state aid figures (for 2004-05) along with the projected state aid projections for the next biennium.

	2004-05	2005-06	2006-07
General Fund	\$618,568,757	\$661,142,747	\$713,993,287
Insurance Premium Tax	\$15,748,519	\$16,142,232	\$16,545,788
TOTAL	\$634,317,276	\$677,284,979	\$730,539,075

SOURCE: Legislative Fiscal Office

Reorganization Incentive Fund. LB 1091 (a budget package bill) extended the redirection of funds from the Education Innovation Fund to the State's General Fund through the 2005-07 biennium. However, LB 1091 was amended on Select File to dedicate \$1 million from the Education Innovation Fund in FY2005-06 and FY2006-07 for the purpose of reorganization incentive payments. The legislation provides that the state will fund incentive payments to encourage Class II and III school districts with less than 390 students to reorganize into Class II, III, IV or V school districts with greater than 390 students. The incentive payments apply to consolidations after May 31, 2005 and before June 1, 2007.

Compulsory Education/Emergency Care. LB 868 changes the mandatory ages for compulsory education. Currently, children are required to attend school from age 7 through age 15. Beginning in the 2005-06 school year, children will be required to attend school if they will reach the age of 6 by January 1st of the current school year unless they are attending an alternative education program that will allow them to enter the first grade the following school year. Children also must attend through the age of 17 unless they have (i) obtained a diploma, (ii) completed an alternative education program, or (iii) reached the age of 16 and the parent or guardian has signed a waiver form.

LB 868 was returned to Select File for specific amendment in order incorporate a provision related to emergency responses to life-threatening asthma or systemic allergic reactions. The provision states that, until July 1, 2005, medical and designated/trained non-medical school personnel will be immune from civil liability for any act or omission in rendering emergency care for a person experiencing a potentially life-threatening asthma or allergic reaction event on school grounds that results in damage or injury unless the damage or injury was caused by the willful or wanton act or omission of such employee.

Parental Notification. LB 172 outright repeals a mandate implemented in 1991 to require schools to distribute information about parental notification and judicial waiver to students. The mandate required districts to provide written information to all students in grades seven through twelve explaining the requirements for parental notification as a condition for obtaining an abortion. LB 172 did not contain the emergency clause, which means the legislation becomes operative 90 days after the end of the 2004 Session (July 16, 2004).

School Levy. LB 1093 would extend the existence of the \$1.05 levy through the 2007-08 school year. After 2007-08, the maximum levy would return to \$1.00. In addition to the levy provision, the legislation would maintain the following through the 2007-08 school year:

- The existing 1.25% needs reduction as per LB 898 (2002);
- The existing authority to exceed the maximum levy to recover lost state aid due to the 1.25% needs reduction (as per LB 898, 2002); and
- The existing Local Effort Rate (LER) at \$.95.

NOTE: LB 1093 does not address the spending lid provisions. Therefore, the spending lid provisions as per LB 540 (2003) govern this area. The existing zero percent base spending lid would end after the 2004-05 school year. The base spending lid would then return to 2.5% with a lid range to 5.5% beginning in 2005-06.

Public Records. LB 236 amends the public record laws relating to disclosure of a student's personal information. The current law prohibits the release of "personal information in records regarding a student, prospective student, or former student of any tax-supported educational institution maintaining the records, other than routine directory information." LB 236 amends the law to recognize adherence to provisions under the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g). In general, FERPA requires schools to have written permission from the parent in order to release any information from a student's education record.

NOTE: LB 236 was modified under an amendment to LB 868 to make the revised exclusionary provision applicable to home school students when records are maintained by and in the possession of a public entity.

Retirement Issues. Legislation will very likely be introduced in the 2005 Session to increase the employee contribution rate, which would result in an automatic increase in the employer contribution rate. The exact percentage increase will likely be determined at the November meeting of the Public Employees Retirement Board for legislative action in the 2005 Session.

Service Statements: Since passage of legislation in 1998, every member of the School Employees Retirement System must be sent a statement from the Retirement Agency containing creditable service, reported salary, and other relevant information. The statements are sent every other year and are dispatched by certified mail, return receipt requested. LB 961 (2004) would maintain the idea of dispatching the statements in order to make sure each plan member is satisfied with the accuracy of their records. However, the new law would permit the Retirement Agency to dispatch the statements by regular first class mail rather than certified mail. NPERS has estimated the cost saving to be \$166,325 per mailing cycle.

PERB: LB 1097 (2004) expands the Public Employees Retirement Board (PERB) from seven to eight voting members and requires the appointment of one school administrator and one teacher.

Retirement Studies: Two of the more controversial issues facing the Legislature's Retirement Committee this past session involved the spiking of compensation and the authority of school districts to offer 401(a) deferred compensation plans to employees. Two separate bills, LB 1080 and LB 1081, were offered to address these issues, but neither bill was advanced from committee. The chair of the committee, Senator Elaine Stuhr, has offered several interim studies at the end of the 2004 Session to research both issues.

Education Studies. The chair of the Education Committee, Senator Ron Raikes, has designated three separate interim studies as top priorities for examination during the 2004 interim period (April to December). The priority studies include:

- LR 354 to review the function and organizational structure of educational service units;
- LR 366 to collect information and analyze trends with regard to the financing and use of the enrollment option program; and
- LR 367 to examine methods for determining amounts to be paid by the Department of Health and Human Services as education costs for wards of the state or wards of the court.

NOTE: One of the more controversial issues discussed by the Education Committee this year involved the reorganization of Class I school districts. The bill to address this issue, LB 1048, was advanced from committee in the 2004 Session, but did not pass. It is assumed that a similar bill, as that advanced from committee, might be introduced in the 2005 Session, but this remains to be seen. In the meantime, several senators jointly filed an study resolution for the 2004 interim to examine the operation of Class I districts. This particular study, LR 286, was given a third tier priority status, which means those senators sponsoring the interim study will have to carry out most of the research without the benefit of full committee staff.

II. Legislation Passed and Signed into Law

LB 172	<i>Sponsor:</i>	<i>Committee:</i>	<i>Subject:</i>	<i>Final Vote:</i>	<i>Effective:</i>
	Foley	Education	Parental Notification	33-7	July 16, 2004

Since 1991, with the passage of LB 425, school districts were required to provide written information to all students in grades seven through twelve to explain the requirements for parental notification as a condition for obtaining an abortion. The written information must also explain the procedures for judicial waiver of the parental notification requirements.

LB 172 outright repeals section 71-6909, which contained the requirement to distribute such information. The operative date for the legislation is July 16, 2004.

FINAL READING RECORD VOTE LB 172 (33-7-4-5)

Voting in the affirmative, 33:

Aguilar	Connealy	Hudkins	Mossey	Smith
Baker	Cudaback	Jensen	Pedersen, Dw.	Stuhr
Beutler	Engel	Jones	Preister	Synowiecki
Brashear	Erdman	Kremer	Quandahl	Tyson
Bromm	Foley	Maxwell	Raikes	Wehrbein
Byars	Friend	McDonald	Redfield	
Combs	Hartnett	Mines	Schrock	

Voting in the negative, 7:

Bourne	Kruse	Pederson, D.	Schimek
Chambers	Landis	Price	

Present and not voting, 4:

Brown	Janssen	Johnson	Thompson
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Excused and not voting, 5:

Burling	Cunningham	Louden	Stuthman	Vrtiska
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LB 236	<i>Sponsor:</i>	<i>Committee:</i>	<i>Subject:</i>	<i>Final Vote:</i>	<i>Effective:</i>
	Maxwell	Government	Public Records	43-0	July 16, 2004

LB 236 amends the public record laws relating to disclosure of a student's personal information. The current law prohibits the release of "personal information in records regarding a student, prospective student, or former student of any tax-supported educational institution maintaining the records, other than routine directory information."

LB 236 recognizes the adherence to provisions under the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g). In general, FERPA requires schools to obtain written permission from the parent in order to release any information from a student's education record.

NOTE: LB 236 was modified under an amendment to LB 868 to make the revised exclusionary provision applicable to home school students when records are maintained by and in the possession of a public entity.

FINAL READING RECORD VOTE
LB 236 (43-0-4-2)

Voting in the affirmative, 43:

Aguilar	Connealy	Johnson	Mossey	Smith
Baker	Cudaback	Jones	Pederson, D.	Stuhr
Beutler	Cunningham	Kremer	Preister	Stuthman
Brashear	Erdman	Kruse	Price	Synowiecki
Brown	Foley	Landis	Quandahl	Tyson
Burling	Friend	Louden	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Janssen	McDonald	Schimek	
Combs	Jensen	Mines	Schrock	

Present and not voting, 4:

Bourne	Bromm	Hudkins	Thompson
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Excused and not voting, 2:

Engel	Pedersen, Dw.
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LB 297	<i>Sponsor:</i> Hartnett	<i>Committee:</i> Health	<i>Subject:</i> Develop. Disab. Act	<i>Final Vote:</i> w/E 48-0	<i>Effective:</i> April 14, 2004
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LB 297 represented Senator Roger Wehrbein’s personal priority bill for the 2004 Session, but the bulk of the bill, as passed, derived from another piece of legislation, LB 1100.

The basic premise behind LB 297 is to clarify the authority of the Department of Health and Human Services (HHS) to use an objective assessment process to equitably allocate available funding for services and prioritize funding in accordance with the intent of the Legislature. In addition, the measure clarifies that funding is not an entitlement, but instead based on legislative appropriations.

HHS has been using an objective assessment process (OAP) to determine client needs and funding for persons who entered services since 1999. The adoption of the OAP was directed by a federal district court settlement. The process provides similar funding for persons with like needs as determined by the assessment instrument. The required use of the OAP under LB 297 means some persons currently receiving services will receive additional funds for services and others will have a decreased level of funding based upon the OAP determined level of funding.

Creation of Workgroup: LB 297 establishes legislative intent that by July 1, 2010, all persons determined to be eligible for services shall receive services in accordance with the Developmental Disabilities Act. The measure requires HHS to establish a workgroup including representatives

from the State Department of Education, the Advisory Committee on Developmental Disabilities, the Developmental Disabilities Planning Council, consumers, families, consumer advocacy organizations, developmental disabilities service providers, and other interested parties.

By December 1, 2004, HHS, in consultation with the workgroup, must submit a report to the Legislature and the Governor for the development and provision of needed specialized services to implement the 2010 service/funding goal. The plan must provide for:

- (a) The adequate and equitable distribution of available funding for the provision of specialized services pursuant to an objective assessment process;
- (b) the incremental statewide implementation of such process for the provision of specialized services; and
- (c) the projected number of persons who will likely become eligible for specialized services under the act during the next calendar year.

The workgroup will terminate upon submission of the plan or on December 1, 2004, whichever occurs earlier.

NOTE: As a means to offset funding pressures, LB 297 requires persons eligible for specialized services to apply for and accept federal Medicaid benefits.

FINAL READING RECORD VOTE
LB 297 (48-0-0-1)

Voting in the affirmative, 48:

Aguilar	Combs	Janssen	Mossey	Smith
Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Engel	Kremer	Price	Thompson
Bromm	Erdman	Kruse	Quandahl	Tyson
Brown	Foley	Landis	Raikes	Vrtiska
Burling	Friend	Louden	Redfield	Wehrbein
Byars	Hartnett	Maxwell	Schimek	
Chambers	Hudkins	McDonald	Schrock	

Excused and not voting, 1:
Mines

LB 644	<i>Sponsor:</i> Hartnett	<i>Committee:</i> Revenue	<i>Subject:</i> County Assessor Report	<i>Final Vote:</i> 46-0	<i>Effective:</i> July 16, 2004
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In 1998, the voters of Nebraska approved a constitutional amendment (LR 45CA) providing in part that the exemption of state and governmental subdivision property from property taxation

was restricted only to the extent the property was used for a public purpose authorized by the Constitution or the Legislature. The new language was implemented in 1999 with the passage of LB 271, which took effect in 2001.

There was a general assumption underlying the constitutional amendment that governmental bodies should not own property that was not to be used for a governmental or public purpose.

Senator Hartnett introduced LB 644 in the 2003 Session in order to bring more accountability to political subdivisions on this matter. The legislation requires the county assessor of each county to file a report with the Property Tax Administrator and the county board specifying information for the then current year, including the legal description and owner of all property owned or leased by the state or political subdivision. The first such reports are due no later than December 1, 2004, with subsequent reports due every fourth December 1st thereafter.

The Department of Property Assessment and Taxation will then use the information to create and maintain a database of the information that is available to the public on the website of the department. The database must be searchable by legal description, owner, and tax status.

It was Senator Hartnett's belief that LB 644 would:

- enable the public to know the extent to which political subdivisions are purchasing property for other than governmental purposes and how well such property is being managed;
- make it easier to determine if property that should be taxed is in fact being taxed or if it has been overlooked; and
- provide the data to the Property Tax Administrator to prepare a report on public land-holding practices and activities, a report which would be of value to policymakers.

FINAL READING RECORD VOTE
LB 644 (46-0-3-0)

Voting in the affirmative, 46:

Aguilar	Combs	Johnson	Pederson, D.	Stuthman
Baker	Connealy	Jones	Preister	Synowiecki
Beutler	Cudaback	Kruse	Price	Thompson
Bourne	Engel	Landis	Quandahl	Tyson
Brashear	Foley	Louden	Raikes	Vrtiska
Bromm	Friend	Maxwell	Redfield	Wehrbein
Brown	Hartnett	McDonald	Schimek	
Burling	Hudkins	Mines	Schrock	
Byars	Janssen	Mossey	Smith	
Chambers	Jensen	Pedersen, Dw.	Stuhr	

Present and not voting, 3:

Cunningham	Erdman	Kremer
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LB 868	<i>Sponsor:</i> Redfield	<i>Committee:</i> Education	<i>Subject:</i> Compulsory Education	<i>Final Vote:</i> 47-0	<i>Effective:</i> July 16, 2004
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LB 868 began as a bill to offer parents some say over their child's wish to drop out of school. The bill later incorporated provisions related to kindergarten enrollment. Ultimately, the bill became a "Christmas tree" bill of sorts with the attachment of various unrelated "ornaments" throughout the session. By the time the bill passed, it consisted of provisions related to compulsory education, emergency response and immunity from civil liability for certain school personnel, and finally student records as public records.

Compulsory Education: LB 868 changes the mandatory ages for compulsory education at both the upper and lower end of the age spectrum. Currently, children are required to attend school from age 7 through age 15; a student may choose to drop out of school upon reaching age 16.

Change #1: Under LB 868, children will be required to attend school if they will reach the age of 6 by January 1st of the current school year unless they are attending an alternative education program that will allow them to enter the first grade the following school year. This particular change will be operative beginning in the 2005-06 school year.

NOTE: LB 868 does not change the October 15th kindergarten enrollment deadline. An amendment to change the date had been briefly considered during General File debate, but the amendment was not adopted.

Change #2: Under LB 868, children must attend school through the age of 17 unless they have (i) obtained a diploma, (ii) have completed an alternative education program, or (iii) have reached the age of 16 and the parent or guardian has signed a waiver form in the presence of and signed by a notary public. According to the State of the Schools Report, approximately 2.9% of students dropped-out of school in the 2001-02 school year. The assumption behind the legislation is that fewer students would be permitted to drop out of school in light of the new requirement for parental consent.

It is important to reiterate that both changes noted above technically become effective on July 16, 2004, when LB 868 itself officially becomes law. However, the two changes in the compulsory education law have different operative dates, as listed below:

- Change #1, relating to the lower end of the compulsory education law, will become operative beginning in the 2005-06 school year.
- Change #2, relating to the upper end of the compulsory education law, will become operative beginning in the 2004-05 school year.

Emergency Response: On April 13th, LB 868 was returned to Select File for specific amendment in order incorporate a provision related to emergency responses to life-threatening asthma or systemic allergic reactions. The provision states that medical and designated/trained non-medical school personnel will be immune from civil liability for any act or omission in rendering

emergency care for a person experiencing a potentially life-threatening asthma or allergic reaction event occurring on school grounds that results in damage or injury.

The immunity provision becomes operative on July 16, 2004, expires July 1, 2005, and does not include damage or injury caused by the willful or wanton act or omission of the employee. The idea behind the limited operative period is to allow a bill to be introduced in the 2005 Session in order to hold a public hearing (likely before the Judiciary Committee) and to have a more complete discussion on issues surrounding the immunity provision. Senator Ron Raikes was willing to offer the temporary immunity provision under LB 868 on behalf of NSEA, but the issue will have to be re-examined in the 2005 Session.

Public Records: LB 868 was returned to Select File for a second specific amendment on April 13th in order to modify a bill previously passed by the Legislature in the 2004 Session. The bill, LB 236, brings the Nebraska Public Record laws into compliance with the federal Family Educational and Privacy Rights Act with regard to student records. The change made in LB 868 modified LB 236 to account for exempt schools (home schools) when student records are maintained by and in the possession of a public entity.

FINAL READING RECORD VOTE
LB 868 (47-0-2-0)

Voting in the affirmative, 47:

Aguilar	Connealy	Jensen	Pedersen, Dw.	Stuhr
Baker	Cudaback	Johnson	Pederson, D.	Stuthman
Beutler	Cunningham	Jones	Preister	Synowiecki
Bourne	Engel	Kremer	Price	Thompson
Brashear	Erdman	Kruse	Quandahl	Tyson
Bromm	Foley	Landis	Raikes	Vrtiska
Brown	Friend	Maxwell	Redfield	Wehrbein
Burling	Hartnett	McDonald	Schimek	
Byars	Hudkins	Mines	Schrock	
Combs	Janssen	Mossey	Smith	

Present and not voting, 2:

Chambers	Louden
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LB 939	Sponsor: Schimek	Committee: Government	Subject: Interlocal Agreements	Final Vote: 41-0	Effective: July 16, 2004
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LB 939 requires the State Auditor, by December 1st each year, to request information from each governing body regarding agreements to which the governing body is a party under the Interlocal Cooperation Act and the Joint Public Agency Act. All governing bodies are required to provide the information to the Auditor by December 31st. The Auditor is empowered to create a form on which governing bodies must use for reporting purposes.

FINAL RECORD RECORD VOTE
LB 939 (41-0-4-4)

Voting in the affirmative, 41:

Aguilar	Cudaback	Jones	Pederson, D.	Stuthman
Baker	Cunningham	Kremer	Price	Synowiecki
Beutler	Erdman	Kruse	Quandahl	Thompson
Bourne	Friend	Louden	Raikes	Tyson
Brown	Hartnett	Maxwell	Redfield	Wehrbein
Burling	Hudkins	McDonald	Schimek	
Byars	Janssen	Mines	Schrock	
Chambers	Jensen	Mossey	Smith	
Combs	Johnson	Pedersen, Dw.	Stuhr	

Present and not voting, 4:

Engel	Landis	Preister	Vrtiska
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Excused and not voting, 4:

Brashear	Bromm	Connealy	Foley
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LB 950	<i>Sponsor:</i> Vrtiska	<i>Committee:</i> Bus. & Labor	<i>Subject:</i> New hire reports	<i>Final Vote:</i> 43-0	<i>Effective:</i> Jan. 1, 2005
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Legislation was passed in the 1997 Session (LB 752) that created the New Hire Reporting Act in part to aid the process and collection of child support. Beginning in October 1997, all employers were required to submit reports to the Department of Health and Human Services within a specified period of time after hiring or rehiring employees. (This information is also cross-matched with the databases of the Department of Labor in order to identify overpayments of unemployment compensation.)

The reports formerly included the employee's name, address, and social security number, along with the name, address, and federal tax identification number of the employer. LB 950 would expand the required reporting information to include the date of hire or rehire of the employee.

The intent of the legislation was to reduce the number of wage audits of Nebraska employers regarding possible overpayments of unemployment benefits. Employers are often required to respond to wage audits because the state unemployment agency does not know the exact date that the worker began working for the employer. This often results in employers having to complete unnecessary wage audits.

NOTE: The employee's federal W-4 may be used for transmission of this information, since this form should have the date of hire or rehire inscribed on it.

The new law becomes operative on January 1, 2005.

FINAL READING RECORD VOTE
LB 950 (43-0-0-6)

Voting in the affirmative, 43:

Baker	Connealy	Jensen	Pedersen, Dw.	Stuhr
Beutler	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Erdman	Kremer	Price	Thompson
Brown	Foley	Kruse	Quandahl	Tyson
Burling	Friend	Landis	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	Mines	Schimek	
Combs	Janssen	Mossey	Schrock	

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

LB 961	<i>Sponsor:</i> Stuhr	<i>Committee:</i> Retirement	<i>Subject:</i> Service Statements	<i>Final Vote:</i> 42-0	<i>Effective:</i> July 16, 2004
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Under existing law, every member of the School Employees Retirement System receives a statement from the Nebraska Public Employees Retirement Systems (NPERS) containing creditable service, reported salary, and other relevant information. The statements are sent every other year and are dispatched by certified mail, return receipt requested.

The problem for both the Retirement Agency and plan members is the cost associated with mailing the statements by certified mail. It also requires a substantial amount of administrative time to process the mailings.

LB 961 maintains the idea of dispatching the statements in order to make sure each plan member is satisfied with the accuracy of their records. However, the legislation permits the Retirement Agency to dispatch the statements by regular first class mail rather than certified mail.

NPERS has estimated the cost saving to be \$166,325 per mailing cycle.

FINAL READING RECORD VOTE
LB 961 (42-0-1-6)

Voting in the affirmative, 42:

Baker	Cudaback	Johnson	Pederson, D.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Erdman	Kremer	Price	Thompson
Brown	Foley	Kruse	Quandahl	Tyson
Burling	Friend	Landis	Raikes	Vrtiska
Byars	Hartnett	Maxwell	Redfield	Wehrbein
Chambers	Hudkins	Mines	Schimek	

Combs	Janssen	Mossey	Schrock
Connealy	Jensen	Pedersen, Dw.	Stuhr

Present and not voting, 1:

Beutler

Excused and not voting, 6:

Aguilar	Engel	McDonald
Bromm	Louden	Smith

LB 973	<i>Sponsor:</i> Landis	<i>Committee:</i> Revenue	<i>Subject:</i> Adjusted Valuation	<i>Final Vote:</i> w/E 46-0	<i>Effective:</i> April 2, 2004
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LB 973 began as legislation to enact the official request of the Tax Equalization and Review Commission (TERC) to change appeal provisions and equalization responsibility and otherwise clarifying the TERC Act. By the time the bill passed, LB 973 had absorbed several other provisions from revenue-related bills.

In general, LB 973 makes most appeal timelines and procedures uniform throughout state law and adopts more general language covering appeals. Procedures covering perjury, subpoenas and continuing an action after the death or disability of a party or sale of the underlying property would be outlined in statute. The TERC would be provided more flexibility to decide whether an adjustment must be made, and requirements for subclass adjustments would be modified.

During General File debate on March 16th, an amendment was successfully offered by Nickerson Senator Ray Janssen that would allow certain taxpayers who are eligible for a special valuation under existing law to apply for the valuation within 30 days of receiving a property valuation notice from the county. He said the amendment was introduced in response to a clerical error in Dodge County that caused about 900 property owners to miss a deadline for filing for a special valuation.

Corrections and Errors: Under the current school finance formula, county assessors must, by August 25th, certify to the Property Tax Administrator the total taxable value by school district in the county for the current assessment year on forms prescribed by the Property Tax Administrator.

LB 973 amends the law to state that the county assessor may amend the filing for changes made to the taxable valuation of the school district in the county if corrections or errors on the original certification are discovered. Amendments must be certified to the Property Tax Administrator by September 30th.

Written Orders: Under current law, the Property Tax Administrator must, by January 1st, enter an order modifying or declining to modify the adjusted valuations and must certify the order to the State Department of Education. The final determination of the Property Tax Administrator may be appealed to the TERC.

LB 973 first clarifies that the order must be in written form and second requires a copy of the written order to be mailed to the local school system within seven days after the date of the order. The written order of the Property Tax Administrator may then be appealed within 30 days after the date of the order to the TERC.

Nonappealable Correction: LB 973 provides that, by June 30th of the year following the certification of adjusted valuation, a local school system or county official may file with the Property Tax Administrator a written request for a nonappealable correction of the adjusted valuation due to changes to the tax list that change the assessed value of taxable property.

Upon the filing of the written request, the Property Tax Administrator must require the county assessor to recertify the taxable valuation by school district in the county on forms prescribed by the Property Tax Administrator. The recertified valuation must be the valuation that was certified on the tax list increased or decreased by changes to the tax list that change the assessed value of taxable property in the school district in the county in the prior assessment year. By the following July 31st, the Property Tax Administrator must approve or deny the request and, if approved, certify the corrected adjusted valuations resulting from the action to the State Department of Education.

FINAL READING RECORD VOTE
LB 973 (46-0-2-1)

Voting in the affirmative, 46:

Aguilar	Connealy	Johnson	Pedersen, Dw.	Stuthman
Baker	Cudaback	Jones	Pederson, D.	Synowiecki
Beutler	Cunningham	Kremer	Price	Thompson
Bourne	Engel	Kruse	Quandahl	Tyson
Brashear	Foley	Landis	Raikes	Vrtiska
Bromm	Friend	Louden	Redfield	Wehrbein
Brown	Hartnett	Maxwell	Schimek	
Byars	Hudkins	McDonald	Schrock	
Chambers	Janssen	Mines	Smith	
Combs	Jensen	Mossey	Stuhr	

Present and not voting, 2:

Erdman	Preister
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Excused and not voting, 1:

Burling

LB 1091	Sponsor: Bromm	Committee: Appropriations	Subject: Reorganization	Final Vote: w/E 48-0	Effective: See Below
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LB 1091 represented one of the major pieces of the Appropriations Committee budget package and related ostensibly to cash transfers, including a transfer of approximately \$6 million in the next biennium from the Education Innovation Fund to the State's General Fund.

Reorganization Incentives: During Select File debate, Senator Ron Raikes successfully pursued an amendment to LB 1091 concerning reorganization incentive payments. Under these provisions, the first \$1 million available in the Education Innovation Fund in both 2005-06 and 2006-07 would be transferred to the newly created School District Reorganization Fund. As noted above, the remaining amount in the Education Innovation Fund would be transferred to the General Fund in both 2005-06 and 2006-07 (about \$3 million per fiscal year).

The reorganization incentive provisions are designed to encourage Class II and III school districts with less than 390 students to reorganize into Class II, III, IV or V school districts with greater than 390 students. The incentive payments apply to consolidations after May 31, 2005 and before June 1, 2007. Incentives are paid to reorganized schools for two years. Base year incentives are paid in the initial year of reorganization. The funds are to be prorated if the total is insufficient to fund all schools qualified for incentives. Base year incentives will be equal to 50% of the amount calculated based upon a formula established in the legislation.

Incentives in the second year of a consolidation will equal the other 50% of the original calculation unless funds were prorated for the base year. If funds were prorated, the second year incentives will include the amount not paid in the first year due to prorating of the funds. Second year incentives will be funded with General Funds as part of the distribution of state aid in 2006-07 and 2007-08. Base year incentives are not included in formula resources for purposes of state aid and schools may exceed the spending lid by the amount of incentive payments received.

To qualify for incentive payments, an application must be approved by the State Committee for the Reorganization of School Districts. Consolidating school districts must file an application with the state committee within 30 days following the issuance of the boundary change order. The state committee must approve or disapprove incentive payments within 30 days after receipt of the application.

For incentive payments to be approved by the state committee, a reorganization study, including efficiency, demographic, curriculum, facility, financial, and community components, must be completed. If a study is completed and the reorganization will “most likely” result in more efficiency in the delivery of educational services or greater educational opportunities, the state committee may approve incentive payments.

NOTE: In 2002-03, there were 134 Class II and III school districts with less than 390 students. These systems had a combined average daily membership (ADM) of 32,891 students.

FINAL READING RECORD VOTE
LB 1091 (48-0-0-1)

Voting in the affirmative, 48:

Aguilar	Combs	Janssen	Mines	Smith
Baker	Connealy	Jensen	Mossey	Stuhr
Beutler	Cudaback	Johnson	Pedersen, Dw.	Stuthman
Bourne	Cunningham	Jones	Preister	Synowiecki
Brashear	Engel	Kremer	Price	Thompson

Bromm	Erdman	Kruse	Quandahl	Tyson
Brown	Foley	Landis	Raikes	Vrtiska
Burling	Friend	Louden	Redfield	Wehrbein
Byars	Hartnett	Maxwell	Schimek	
Chambers	Hudkins	McDonald	Schrock	

Excused and not voting, 1:
Pederson, D.

LB 1093	<i>Sponsor:</i> Raikes	<i>Committee:</i> Education	<i>Subject:</i> Levy Limitations	<i>Final Vote:</i> 43-5	<i>Effective:</i> July 16, 2004
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LB 1093 was originally introduced to permanently extend the (i) \$1.05 maximum levy for school districts, (ii) the temporary aid adjustment factor in the Tax Equity and Educational Opportunities Support Act (TEEOSA), and (iii) the exception to the maximum levy associated with the temporary aid adjustment factor.** The bill was later advanced from committee with the intent to merely extend these components through the 2007-08 school year.

The legislation ultimately became part of the Appropriations Committee budget package with a revised intent to temporarily raise the maximum levy to \$1.10. However, all legislative attempts to increase the maximum levy above the existing \$1.05 failed.

As passed by the Legislature, LB 1093 extends the existence of the \$1.05 levy through the 2007-08 school year. After 2007-08, the maximum levy would return to \$1.00. In addition to the levy provision, the legislation would maintain the following through the 2007-08 school year:

- The existing 1.25% needs reduction as per LB 898 (2002);
- The existing authority to exceed the maximum levy to recover lost state aid due to the 1.25% needs reduction (as per LB 898, 2002); and
- The existing Local Effort Rate (LER) at \$.95.

NOTE: LB 1093 does not address the spending lid provisions. Therefore, the spending lid provisions under LB 540 (2003) govern this area. The existing zero percent base spending lid would end after the 2004-05 school year. The base spending lid would then return to 2.5% with a lid range to 5.5% beginning in 2005-06.

** The temporary aid adjustment factor equals 1.25% of what would otherwise be the formula needs for a local system. State aid for the local system is then reduced by the amount of the factor using three different components of the state aid calculation and a levy exception is allowed to recover the reduction in aid.

FINAL READING RECORD VOTE
LB 1093 (43-5-0-1)

Voting in the affirmative, 43:

Aguilar	Chambers	Janssen	Mossey	Smith
Baker	Combs	Jensen	Pedersen, Dw.	Stuhr
Beutler	Connealy	Johnson	Preister	Synowiecki
Bourne	Cudaback	Jones	Price	Thompson
Brashear	Cunningham	Kremer	Quandahl	Tyson
Bromm	Engel	Kruse	Raikes	Vrtiska
Brown	Foley	Landis	Redfield	Wehrbein
Burling	Hartnett	McDonald	Schimek	
Byars	Hudkins	Mines	Schrock	

Voting in the negative, 5:

Erdman	Friend	Louden	Maxwell	Stuthman
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Excused and not voting, 1:

Pederson, D.

LB 1097	<i>Sponsor:</i> Stuhr	<i>Committee:</i> Retirement	<i>Subject:</i> Omnibus Cleanup	<i>Final Vote:</i> w/E 45-0	<i>Effective:</i> See Below
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LB 1097 represents the omnibus, technical cleanup bill for the Nebraska Public Employees Retirement Systems (NPERS). The legislation also became the vehicle for several other retirement-related bills containing both technical and substantive provisions. LB 1097 passed with the emergency clause attached, but individual sections of the legislation have different operative dates as shown below.

PERB: One of the major substantive changes in LB 1097 relates to the composition of the Public Employees Retirement Board (PERB), the state appointed board with oversight authority of the NPERS. The change involves the incorporation of elements of LB 1115 to change the composition of the PERB. (LB 1115 was never advanced from the Retirement Committee, but was supported by both NCSA and NSEA.)

As passed by the Legislature, LB 1097 would add one new member to the PERB, specifically a member of the School Employees Retirement System. The PERB will be comprised of eight rather than seven members effective July 16, 2004.

New Composition of the PERB

- 2 members from the School Employees Plan
(1 active administrator, 1 active teacher);
- 1 active or retired member of the Judges Plan;
- 1 active or retired member of the State Patrol Plan;
- 1 active member of the County Plan;
- 1 active member of the State Plan; and
- 2 public members.

Other Relevant Sections: In addition to the substantive change noted above, LB 1097 makes a number of changes to all five state employee retirement systems (School Employees, State Patrol, County Officials, Judges, and State Employees) and also the Omaha Public Schools (OPS) Retirement System. Only those sections relevant to the School Employees and OPS Retirement Systems will be addressed in this report.

Section 23 (*Amends §79-916*) Amends the procedure for transferring the service annuity to a Class V district (OPS). On July 1, 2004, the amount pertaining to the accrued service annuity liability of the members of the Class V district will be transferred to the Service Annuity Fund which is established by LB 1097. On or before July 1st of each year thereafter, an amount equal to the annual normal cost and any amortization payment will be transferred to the Fund. The Class V district will provide membership information necessary for NPERS' actuary to determine the amounts to be paid to the Fund. At the retirement of Class V system members, and after the Class V system certifies necessary data, NPERS will transfer from the Service Annuity Fund the amount of the accrued actuarial liability for those members to the Class V district. [*Operative on April 16, 2004*]

Section 24 (*Amends §79-921*) Requires members who rejoin the School Employees Plan and who, more than 3 years later elect to repay withdrawn amounts, to repay the amount withdrawn plus an amount equal to the actuarial assumed rate of return for the period (instead of the actual annual rate of return). [*Operative on July 1, 2004*]

Section 25 (*Amends §79-942*) Harmonizing language to eliminate the Retired School Teachers Supplementary Benefits Fund. [*Operative on July 1, 2004*]

Section 26 (*Amends §79-946*) Eliminates the Retired School Teachers Supplementary Benefits Fund and transfers any assets to the School Retirement Fund. [*Operative on July 1, 2004*]

Section 27 (*Amends §79-947.01*) Amends COLA calculation language under the School Employees Plan to comply with concerns raised by the Auditor to assure the method used by NPERS and the statutory method would be the same. [*Operative on July 1, 2004*]

Section 28 (*Amends §79-951*) Allows the PERB to waive disability examinations in extraordinary circumstances such as hospice placement for a terminal illness or injury. [*Operative on July 1, 2004*]

Section 29 (*Amends §79-966*) Requires the state to appropriate to the Service Annuity Fund an amount equal to the normal cost and any amortization payment necessary for members of the Class V retirement system. [*Operative on April 16, 2004*]

Section 39 (*Amends §84-1511.01*) Allows retirement education and financial planning programs to be offered in partial-day segments equivalent to the single-day format currently utilized. [*Operative on July 1, 2004*]

FINAL READING RECORD VOTE
LB 1097 (45-0-2-2)

Voting in the affirmative, 45:

Aguilar	Combs	Jensen	Mines	Schrock
Baker	Connealy	Johnson	Mossey	Smith
Beutler	Cudaback	Jones	Pedersen, Dw.	Stuhr
Bourne	Engel	Kremer	Pederson, D.	Stuthman
Brashear	Erdman	Kruse	Price	Synowiecki
Bromm	Foley	Landis	Quandahl	Thompson
Brown	Friend	Louden	Raikes	Tyson
Burling	Hudkins	Maxwell	Redfield	Vrtiska
Byars	Janssen	McDonald	Schimek	Wehrbein

Present and not voting, 2:

Cunningham Preister

Excused and not voting, 2:

Chambers Hartnett

LB 1179	<i>Sponsor:</i> Smith	<i>Committee:</i> Government	<i>Subject:</i> Open Meeting Laws	<i>Final Vote:</i> 39-0	<i>Effective:</i> July 16, 2004
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Current law already provides that “electronic communications” and “video or telephone conferencing” may not be used to circumvent any of the purposes of the open meetings law. LB 1179 specifies that this includes emails, faxes, and other electronic communications.

As modified by LB 1179, a public body may not use closed sessions, informal meetings, chance meetings, social gatherings, e-mails, faxes, or other electronic communications to circumvent the open meetings law.

FINAL READING RECORD VOTE
LB 1179 (39-0-4-6)

Voting in the affirmative, 39:

Baker	Combs	Hudkins	Mines	Redfield
Beutler	Connealy	Janssen	Mossey	Schimek
Bourne	Cudaback	Johnson	Pedersen, Dw.	Stuhr
Brashear	Cunningham	Jones	Pederson, D.	Stuthman
Brown	Erdman	Kremer	Preister	Thompson
Burling	Foley	Kruse	Price	Tyson
Byars	Friend	Landis	Quandahl	Vrtiska
Chambers	Hartnett	Maxwell	Raikes	

Present and not voting, 4:

Jensen Schrock Synowiecki Wehrbein

Excused and not voting, 6:

Aguilar Engel McDonald
Bromm Louden Smith

III. 2004 Interim Study Resolutions

Education Committee

Senator Ron Raikes, Chair

A “Priority 1” interim study represents a full-fledged committee study project and process with coordinated committee staff effort. A “Priority 2” interim study represents a mid-level study with limited committee staff work. A “Priority 3” interim study represents an individual senator study process with committee staff available for assistance and to share expertise as requested.

<i>LR</i>	<i>Sponsor</i>	<i>Subject</i>	<i>Priority</i>
354	Johnson	Interim study to review the purpose, structure, and changes for the improved functioning of educational service units	1
366	Raikes	Interim study to collect information with regard to financing and use of the enrollment option program	1
367	Raikes	Interim study to examine methods for determining amounts to be paid by HHS as education costs for wards of the state	1
359	Thompson	Interim study to examine feasibility of a second round of deferred maintenance projects for the University of Nebr. and state colleges	2
363	Schrock	Interim study to analyze financial effectiveness and legal requirements associated with educational lands and funds, the temporary school fund, and the permanent school fund	2
364	Raikes	Interim study to examine creation of an Educational Facilities Review Commission for public educational facilities	2
286	Hudkins	Interim study of issues pertaining to the operations of Class I schools	3
316	Erdman	Interim study to consider steps that can be taken to meet the state’s obligation to provide free instruction for all persons, with respect to co-curricular and extracurricular activities	3
326	Stuthman	Interim study to examine issues relating to eliminating vending machines with non-nutritional foods and beverages from primary and secondary schools	3
338	Smith	Interim study to explore implementation of charter schools	3
351	Beutler	Interim study to determine the amount of public scholarship money necessary to meet the financial need of all eligible students	3
353	Beutler	Interim study to examine providing higher education classes via the Internet and other distance technology	3
365	Raikes	Interim study to review matters within the jurisdiction of the Education Committee	3

PURPOSE: To review the purpose, structure, and possible changes for the future improved functioning of educational service units. The study shall include, but not be limited to, the following:

1. Collection of data regarding the current structure;
2. Collection of data regarding demographic trends in Nebraska including predicted changes in the concentration of students in various geographical areas;
3. Analysis of regional and national information regarding organizational structures of educational service units;
4. Analysis of how work by the State Board of Education on potential changes to the accreditation rules should affect organizational structures; and
5. Development of a process to move educational service units toward a structure that will effectively and efficiently support their functioning with the available funds, taking into account predicted demographics and potential accreditation rules.

PURPOSE: The purpose of this study resolution is to collect information and analyze trends with regard to the financing and use of the enrollment option program. The analysis shall also explore whether the existing policies regarding the program continue to be appropriate for Nebraska's system of public education.

PURPOSE: The purpose of this resolution is to examine methods for determining amounts to be paid by the Department of Health and Human Services as education costs for wards of the state or wards of any court pursuant to subsection (7) of section 79-215.

PURPOSE: In 1998 the Legislature passed LB 1100, allowing the University of Nebraska and the Nebraska state colleges to issue revenue bonds to complete several badly needed deferred maintenance projects. Revenue from institutional resources and appropriations from the Legislature were pledged to repay the bonds. Since that time most of these projects have been completed and the institutions are experiencing new deferred maintenance problems. A study should be conducted to determine the feasibility of a second round of deferred maintenance projects that could be completed using a mechanism similar to that used with LB 1100.

PURPOSE: The purpose of this study resolution is to analyze the financial effectiveness and legal requirements associated with educational lands and funds, the temporary school fund, and the permanent school fund.

PURPOSE: (1) To examine the creation of an Education Facilities Review Commission for public educational facilities that are primarily financed with property taxes and to investigate the fiscal impact of changing provisions relating to levy limitations to accommodate additional taxing authority restricted for building funds and the fiscal impact of providing a factor in the Nebraska's state aid to education formula for K-12 public school districts that would assist those districts in reducing the property tax burden of their bonded indebtedness.

(2) In addition, the study should also review the realities of the current levy limitations to determine if the community colleges are able to adequately repair and maintain existing facilities and provide for construction of new facilities to accommodate the significant enrollment growth of the past several years.

PURPOSE: No interim study undertaken by a committee of the Legislature, including that occasioned by LR 180 in 2003, has focused specifically upon issues pertaining to the operations of Class I schools in Nebraska. The objective of this interim study is to remedy that oversight by addressing pro-actively concerns relating to this state's Class I schools. Specifically, it is hoped that the information examined will produce a viable alternative to recent proposals calling for, or creating the conditions which would lead to, the elimination of Class I schools altogether, thereby ensuring that these traditional institutions of learning continue to fulfill their vital and historic role of providing a quality education to students in the rural areas of our state.

Drawing upon the expertise of a wide spectrum of regional educators and community leaders and in partnership with selected Class I school representatives, state officials, and other educational professionals, the interim study will collectively and cooperatively focus upon producing a definitive strategic action plan identifying ways in which to assist Class I schools in their ongoing efforts to develop progressively and to continue to be efficient and responsive to the needs of the communities which they serve. In addition, it will create a plan of increasing cooperation between Class I school districts, their affiliated K-12 districts, and the State Board of Education by further coordinating their respective goals and facilitating administrative interaction.

To promote the overall effectiveness and enhance the operations of Class I schools, the interim study will consider, among other things, a definitive action plan designed to: (1) Seek opportunities to enhance further the operational effectiveness and fiscal efficiency of Class I schools and, through a thorough examination of best practices from selected Class I schools, iden-

tify specific tactical activities designed to improve these areas; (2) correlate the core curriculums between Class I schools and their affiliate K-12 districts for the purpose of establishing curricular parity; and (3) identify reporting, budgeting, and assessment efficiencies designed to minimize the Class I administrative responsibilities of the State Department of Education, such as consolidating the assessment of standardized test scores among Class I school districts in order to facilitate their reporting and compilation.

LR 316*Introduced by Erdman*Priority 3

PURPOSE: The Constitution of Nebraska provides that the Legislature shall provide for free instruction for all persons between the ages of five and twenty-one years and the Nebraska Supreme Court has ruled that statutes related to education should be liberally and broadly construed to provide for free instruction. The Legislature recognizes this obligation and further recognizes that co-curricular and extracurricular activities play an important role in the education of our youth.

The purpose of this study is to consider the steps that can be taken to meet the state's obligation, especially with respect to co-curricular and extracurricular activities, to the five thousand exempt students in Nebraska through the public school system. This study shall include, but not be limited to, reviewing Nebraska laws and the laws of other states related to co-curricular and extracurricular opportunities of exempt students, as well as the rules of school organizations applicable to student participation in co-curricular and extracurricular activities. In addition, information shall be gathered on the number of students and types of programs that could be made available to exempt students if Legislative Bill 896, Ninety-eighth Legislature, 2003, is enacted. Input shall be solicited from the State Department of Education, the Nebraska School Activities Association, the Nebraska Association of School Boards, the Nebraska Council of School Administrators, education professionals, families, parents of and groups representing parents of exempt students, and any other government agencies, groups, or individuals with relevant information as well as any other interested parties.

LR 326*Introduced by Stuthman*Priority 3

PURPOSE: To study the benefits, consequences, and feasibility of eliminating vending machines with non-nutritional foods and beverages from primary and secondary schools or restricting student access during the school day to such machines. The study shall include, but not be limited to, the fiscal impact on local school districts and an examination of comparable law in other states.

LR 338*Introduced by Smith*Priority 3

PURPOSE: The purpose of this study is to explore options for implementing charter schools in Nebraska. This study shall include, but not be limited to, identifying and investigating other successful state models establishing charter schools, the steps necessary to establish a charter school option in Nebraska, and the impact on the current educational system.

PURPOSE: To determine the amount of public scholarship money necessary to meet the financial need of all Nebraska higher education students eligible for need-based state financial aid. In 2001-02, Nebraska ranked thirty-fifth nationally in the amount of need-based financial aid grant dollars per full-time undergraduate enrollment in public and private institutions. Nebraska's state grant programs then reached thirty-seven and one-half percent of students eligible for need-based financial aid. General funds preliminarily allocated for need-based financial aid in 2004-05 totaled \$5,745,794. An additional \$2,000,000 was allocated from lottery funds.

Meanwhile, the University of Nebraska-Lincoln, as well as most state and community colleges, continue to raise tuition rates. According to the Coordinating Commission for Postsecondary Education, annual tuition and other mandatory fees for the University of Nebraska-Lincoln students increased by eight and nine-tenths percent in 2002-03 and by fourteen and two-tenths percent in 2003-04. Tuition is expected to rise again in 2004-05. Other public institutions throughout the state have made similar tuition increases. It is the intent of the Legislature that this interim study will determine the amount of additional state aid necessary to allow all qualified low income students the opportunity to pursue a university or college education.

PURPOSE: To examine the feasibility and desirability of providing an increased number of education opportunities to citizens of Nebraska by delivering higher education classes via the Internet and other distance technology. As access to higher education programs becomes more critical for our state's economic future, we must avail ourselves of all means to deliver classes and programs to our citizens. Technology can be used both within the traditional higher education framework and as a means of expanding that framework. With respect to the former, combining Internet-based learning with classroom instruction may prove useful in introductory courses, where larger class sizes often limit opportunities for class participation. Distance technology will also allow us to extend higher education opportunities to a larger number of citizens by offering nontraditional forms of access to class work and degree programs. This interim study will also examine the extent to which academic programs can be improved by computer mediated materials and can be made more available via distance education, the potential for growth in the number and variety of such programs, and steps that can be taken by the Legislature to provide incentives for additional distance education offerings.

PURPOSE: The purpose of this study resolution is to investigate and review matters and issues arising during the interim which are within the jurisdiction of the Education Committee of the Legislature.

Retirement Committee

Senator Elaine Stuhr, Chair

<i>LR</i>	<i>Sponsor</i>	<i>Subject</i>
255	Stuhr	Interim study to examine creation of a medical COLA type retirement benefit for retired members of the School Retirement System
256	Stuhr	Interim study to examine creation of Internal Revenue Code Section 401(A) type annuities by school boards or boards of education
321	Stuhr	Interim study to examine both the items defined as compensation and the limits placed upon compensation increases for the calculation of retirement benefits for school employees
323	Stuhr	Interim study to examine the five employee retirement systems administered by the Public Employees Retirement Board

LR 255

Introduced by Stuhr

PURPOSE: The purpose of this study is to examine the creation of a medical COLA-type retirement benefit for retired members of the School Retirement System of the State of Nebraska. The study will examine the adequacy of benefits for retired members of the retirement system, and the effect of adopting a medical COLA retirement benefit to address benefit inadequacies, if any.

LR 256

Introduced by Stuhr

PURPOSE: The purpose of this study is to examine the creation of Internal Revenue Code Section 401(A)-type annuities by school boards or boards of education, and the impact of such annuities on the collection of social security and on the retirement benefits under the School Retirement System of the State of Nebraska. The study will examine the effect of the Internal Revenue Code provisions upon the retirement system and how such annuities may affect retirement benefits.

LR 321

Introduced by Stuhr

PURPOSE: To examine both the items defined as compensation and the limits placed upon compensation increases for the calculation of retirement benefits, as found in subdivision (35) of section 79-902, and to determine whether such provisions are appropriate in order to ensure the amount of compensation used to calculate retirement benefits may not be increased substantially prior to retirement for the purpose of spiking the amount of benefits received by a plan member.

The study shall also examine the appropriate rate of the limitation, the base salary used for the limitation, what items should be considered compensation versus fringe benefits, and the resulting impact on the normal costs of the school employees' defined benefit plan.

PURPOSE: The purpose of this study is to examine the five public employee retirement systems administered by the Public Employees Retirement Board. The study shall examine issues as they relate to the funding needs of the various retirement systems, and the 10 administration of each system.

Natural Resources Committee

Senator Ed Schrock, Chair

<i>LR</i>	<i>Sponsor</i>	<i>Subject</i>
404	Schrock	Interim study to review the issue of storm runoff requirements as required by the federal Clean Water Act

PURPOSE: The purpose of this study is to review the issue of storm runoff requirements as required by the federal Clean Water Act, 33 U.S.C. 1251 et seq. and possible funding mechanisms for such programs.

APPENDIX

A. Legislative Session Statistics

Number of Bills Introduced (excluding "A" bills)

Number of Bills Introduced, 1st Session (2003).....	809
Number of Bills Introduced, 2nd Session (2004).....	446
TOTAL number of Bills Introduced, 98th Legislature.....	1255

Number of Carryover Bills and Resolutions, 1st Session.....344

Constitutional Amendments Delivered to Secretary of State

Number Delivered, 1st Session	1
Number Delivered, 2nd Session.....	3
TOTAL number Delivered, 98th Legislature	4

Number of Bills Signed into Law

Number of Bills Signed into Law, 1st Session.....	259
Number of Bills Signed into Law, 2nd Session	132
TOTAL number of Bills Signed into Law, 98th Legislature.....	391

B. Composite Vote Record (Final Reading)

	Parental Notifica- tion	Public Records	County Assessor Reports	Compul- sory Educa- tion	Inter- local Agree- ments	New Hire Reports	Service State- ments	Adjusted Valuation	Reorgan- ization Incentive	Levy Limit- ations	Retire- ment Agency Cleanup	Open Meetings Law
	LB 172	LB236	LB 644	LB 868	LB 939	LB 950	LB 961	LB 973	LB 1091	LB 1093	LB 1097	LB 1179
Aguilar	Y	Y	Y	Y	Y	E	E	Y	Y	Y	Y	E
Baker	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Beutler	Y	Y	Y	Y	Y	Y	P	Y	Y	Y	Y	Y
Bourne	N	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Brashear	Y	Y	Y	Y	E	Y	Y	Y	Y	Y	Y	Y
Bromm	Y	P	Y	Y	E	E	E	Y	Y	Y	Y	E
Brown	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Burling	E	Y	Y	Y	Y	Y	Y	E	Y	Y	Y	Y
Byars	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Chambers	N	Y	Y	P	Y	Y	Y	Y	Y	Y	E	Y
Combs	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Connealy	Y	Y	Y	Y	E	Y	Y	Y	Y	Y	Y	Y
Cudaback	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Cunningham	E	Y	P	Y	Y	Y	Y	Y	Y	Y	P	Y
Engel	Y	E	Y	Y	P	E	E	Y	Y	Y	Y	E
Erdman	Y	Y	P	Y	Y	Y	Y	P	Y	N	Y	Y
Foley	Y	Y	Y	Y	E	Y	Y	Y	Y	Y	Y	Y
Friend	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Hartnett	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	E	Y
Hudkins	Y	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Janssen	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Jensen	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	P
Johnson	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Jones	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Kremer	Y	Y	P	Y	Y	Y	Y	Y	Y	Y	Y	Y
Kruse	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Landis	N	Y	Y	Y	P	Y	Y	Y	Y	Y	Y	Y
Louden	E	Y	Y	P	Y	E	E	Y	Y	N	Y	E
Maxwell	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
McDonald	Y	Y	Y	Y	Y	E	E	Y	Y	Y	Y	E
Mines	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Mossey	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Pedersen, Dw.	Y	E	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Pederson, D.	N	Y	Y	Y	Y	Y	Y	Y	E	E	Y	Y
Preister	Y	Y	Y	Y	P	Y	Y	P	Y	Y	P	Y
Price	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Quandahl	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Raikes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Redfield	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Schimek	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Schrock	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	P
Smith	Y	Y	Y	Y	Y	E	E	Y	Y	Y	Y	E
Stuhr	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Stuthman	E	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Synowiecki	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	P
Thompson	P	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Tyson	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Vrtiska	E	Y	Y	Y	P	Y	Y	Y	Y	Y	Y	Y
Wehrbein	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	P
	33-7-4-5	43-0-4-2	46-0-3-0	47-0-2-0	41-0-4-4	43-0-0-6	42-0-1-6	46-0-2-1	48-0-0-1	43-5-0-1	45-0-2-2	39-0-4-6

Key: Y = Yes N = No P = Present, not voting E = Excused, not voting

C. The Family Educational and Privacy Rights Act (FERPA)

Title 20, Chapter 31, Sec. 1232g

- (a) Conditions for availability of funds to educational agencies or institutions; inspection and review of education records; specific information to be made available; procedure for access to education records; reasonableness of time for such access; hearings; written explanations by parents; definitions
- (1) (A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.
- (B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.
- (C) The first sentence of subparagraph (A) shall not operate to make available to students in institutions of postsecondary education the following materials:
- (i) financial records of the parents of the student or any information contained therein;
 - (ii) confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended;
 - (iii) if the student has signed a waiver of the student's right of access under this subsection in accordance with subparagraph (D), confidential recommendations -

- (I) respecting admission to any educational agency or institution,
 - (II) respecting an application for employment, and
 - (III) respecting the receipt of an honor or honorary recognition.
- (D) A student or a person applying for admission may waive his right of access to confidential statements described in clause (iii) of subparagraph (C), except that such waiver shall apply to recommendations only if
- (i) the student is, upon request, notified of the names of all persons making confidential recommendations and
 - (ii) such recommendations are used solely for the purpose for which they were specifically intended. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.
- (2) No funds shall be made available under any applicable program to any educational agency or institution unless the parents of students who are or have been in attendance at a school of such agency or at such institution are provided an opportunity for a hearing by such agency or institution, in accordance with regulations of the Secretary, to challenge the content of such student's education records, in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading or otherwise inappropriate data contained therein and to insert into such records a written explanation of the parents respecting the content of such records.
- (3) For the purposes of this section the term "educational agency or institution" means any public or private agency or institution which is the recipient of funds under any applicable program.
- (4) (A) For the purposes of this section, the term "education records" means, except as may be provided otherwise in subparagraph (B), those records, files, documents, and other materials which -
- (i) contain information directly related to a student; and
 - (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.
- (B) The term "education records" does not include -
- (i) records of instructional, supervisory, and administrative personnel and edu-

educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

- (ii) records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;
- (iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or
- (iv) records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(5) (A) For the purposes of this section the term "directory information" relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent.

(6) For the purposes of this section, the term "student" includes any person with respect to whom an educational agency or institution maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution.

(b) Release of education records; parental consent requirement; exceptions; compliance with judicial orders and subpoenas; audit and evaluation of federally-supported education pro-

grams; recordkeeping

- (1)** No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section) of students without the written consent of their parents to any individual, agency, or organization, other than to the following -
 - (A)** other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests, including the educational interests of the child for whom consent would otherwise be required;
 - (B)** officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;
 - (C)**
 - (i)** authorized representatives of
 - (I)** the Comptroller General of the United States,
 - (II)** the Secretary, or
 - (III)** State educational authorities, under the conditions set forth in paragraph (3), or **(ii)** authorized representatives of the Attorney General for law enforcement purposes under the same conditions as apply to the Secretary under paragraph (3);
 - (D)** in connection with a student's application for, or receipt of, financial aid;
 - (E)** State and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to State statute adopted -
 - (i)** before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve the student whose records are released, or
 - (ii)** after November 19, 1974, if -
 - (I)** the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve, prior to adjudication, the student whose records are released; and

- (II) the officials and authorities to whom such information is disclosed certify in writing to the educational agency or institution that the information will not be disclosed to any other party except as provided under State law without the prior written consent of the parent of the student.
- (F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;
- (G) accrediting organizations in order to carry out their accrediting functions;
- (H) parents of a dependent student of such parents, as defined in section 152 of title 26;
- (I) subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons; and
- (J) (i) the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished to the grand jury in response to the subpoena; and
 - (ii) the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena.

Nothing in subparagraph (E) of this paragraph shall prevent a State from further limiting the number or type of State or local officials who will continue to have access thereunder.

- (2) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection, unless -

- (A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or
 - (B) except as provided in paragraph (1)(J), such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency.
- (3) Nothing contained in this section shall preclude authorized representatives of
- (A) the Comptroller General of the United States,
 - (B) the Secretary, or
 - (C) State educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally-supported education programs, or in connection with the enforcement of the Federal legal requirements which relate to such programs: Provided, That except when collection of personally identifiable information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements.
- (4) (A) Each educational agency or institution shall maintain a record, kept with the education records of each student, which will indicate all individuals (other than those specified in paragraph (1)(A) of this subsection), agencies, or organizations which have requested or obtained access to a student's education records maintained by such educational agency or institution, and which will indicate specifically the legitimate interest that each such person, agency, or organization has in obtaining this information. Such record of access shall be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to persons or organizations authorized in, and under the conditions of, clauses (A) and (C) of paragraph (1) as a means of auditing the operation of the system.
- (B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student. If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be pro-

hibited from permitting access to information from education records to that third party for a period of not less than five years.

- (5) Nothing in this section shall be construed to prohibit State and local educational officials from having access to student or other records which may be necessary in connection with the audit and evaluation of any federally or State supported education program or in connection with the enforcement of the Federal legal requirements which relate to any such program, subject to the conditions specified in the proviso in paragraph (3).
- (6) (A) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing, to an alleged victim of any crime of violence (as that term is defined in section 16 of title 18), or a nonforcible sex offense, the final results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime or offense with respect to such crime or offense.

(B) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing the final results of any disciplinary proceeding conducted by such institution against a student who is an alleged perpetrator of any crime of violence (as that term is defined in section 16 of title 18), or a nonforcible sex offense, if the institution determines as a result of that disciplinary proceeding that the student committed a violation of the institution's rules or policies with respect to such crime or offense.

(C) For the purpose of this paragraph, the final results of any disciplinary proceeding
 - (i) shall include only the name of the student, the violation committed, and any sanction imposed by the institution on that student; and
 - (ii) may include the name of any other student, such as a victim or witness, only with the written consent of that other student.
- (7) (A) Nothing in this section may be construed to prohibit an educational institution from disclosing information provided to the institution under section 14071 of title 42 concerning registered sex offenders who are required to register under such section.

(B) The Secretary shall take appropriate steps to notify educational institutions that disclosure of information described in subparagraph (A) is permitted.

(c) Surveys or data-gathering activities; regulations

Not later than 240 days after October 20, 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which protect the rights of privacy of students and their families in connection with any surveys or data-gathering activ-

ities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

(d) Students' rather than parents' permission or consent

For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of postsecondary education, the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

(e) Informing parents or students of rights under this section

No funds shall be made available under any applicable program to any educational agency or institution unless such agency or institution effectively informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of postsecondary education, of the rights accorded them by this section.

(f) Enforcement; termination of assistance

The Secretary shall take appropriate actions to enforce this section and to deal with violations of this section, in accordance with this chapter, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with this section, and he has determined that compliance cannot be secured by voluntary means.

(g) Office and review board; creation; functions

The Secretary shall establish or designate an office and review board within the Department for the purpose of investigating, processing, reviewing, and adjudicating violations of this section and complaints which may be filed concerning alleged violations of this section. Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

(h) Disciplinary records; disclosure

Nothing in this section shall prohibit an educational agency or institution from -

- (1)** including appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community; or
- (2)** disclosing such information to teachers and school officials, including teachers and

school officials in other schools, who have legitimate educational interests in the behavior of the student.

(i) Drug and alcohol violation disclosures

(1) In general

Nothing in this Act or the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) shall be construed to prohibit an institution of higher education from disclosing, to a parent or legal guardian of a student, information regarding any violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance, regardless of whether that information is contained in the student's education records, if -

(A) the student is under the age of 21; and

(B) the institution determines that the student has committed a disciplinary violation with respect to such use or possession.

(2) State law regarding disclosure

Nothing in paragraph (1) shall be construed to supersede any provision of State law that prohibits an institution of higher education from making the disclosure described in subsection (a) of this section.

(j) Investigation and prosecution of terrorism

(1) In general

Notwithstanding subsections (a) through (i) of this section or any provision of State law, the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring an educational agency or institution to permit the Attorney General (or his designee) to -

(A) collect education records in the possession of the educational agency or institution that are relevant to an authorized investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18, or an act of domestic or international terrorism as defined in section 2331 of that title; and

(B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such records, consistent with such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

(2) Application and approval

(A) In general. -

An application under paragraph (1) shall certify that there are specific and articulable facts giving reason to believe that the education records are likely to contain information described in paragraph (1)(A).

(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

(3) Protection of educational agency or institution

An educational agency or institution that, in good faith, produces education records in accordance with an order issued under this subsection shall not be liable to any person for that production.

(4) Record-keeping

Subsection (b)(4) of this section does not apply to education records subject to a court order under this subsection