

LEGISLATIVE BILL 33

Passed over the Governor's veto May 23, 1977

Introduced by Koch, 12; S. Marsh, 29

AN ACT to amend sections 79-1334, 79-1336, 79-1337, and 79-1343, Reissue Revised Statutes of Nebraska, 1943, sections 79-4,161, 79-4,166, 79-1333, and 79-1338, Revised Statutes Supplement, 1976, and section 79-490, as amended by section 1, Legislative Bill 117, Eighty-fifth Legislature, First Session, 1977, relating to education; to change amounts of financial support; to impose certain spending limitations; to include specific programs in state financial support calculations; to increase the amount of state financial support; to repeal the original sections, and also sections 79-1335, 79-1340, and 79-1344.01, Reissue Revised Statutes of Nebraska, 1943, and sections 79-4,160 and 79-4,164, Revised Statutes Supplement, 1976.

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

Section 1. That section 79-1333, Revised Statutes Supplement, 1976, be amended to read as follows:

79-1333. (1) All state financial assistance to districts pursuant to sections 79-1330 to 79-1344 shall be based upon the annual financial reports of such districts as required by section 79-451. The State Department of Education shall determine the amount to be distributed to the various school districts and certify such amounts to the Director of Administrative Services. Each amount shall be distributed in nine as nearly as possible equal monthly payments, beginning in October, 1976, and each October thereafter. The State Treasurer shall, between the fifth and twentieth day of each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The Director of Administrative Services shall, upon receipt of such notification, draw warrants against funds appropriated. Such reports shall be submitted to the State Board of Education by ~~Class I and II school districts on or before the first day of September of each year, and by Class III, IV, V, and VI school districts of each class on or before the first day of November of each year. When any Class I or II school district fails to submit its report by the first day of September, any state assistance granted pursuant to sections 79-1330 to 79-1344 shall be based on the amount granted for the previous fiscal year, and shall be reduced by ten per~~

cent-of-that-amount, and when any such district fails to submit its report by the first day of October, it shall forfeit all assistance pursuant to sections 79-1330 to 79-1344 for that year. When any Class III, IV, V, or VI school district fails to submit its report by the first day of November, the State Department of Education shall notify the offending school district of its failure to submit such report and that such district has ten days in which to submit such report. If, after such time, the school district shall still fail to submit its report, any state assistance granted pursuant to sections 79-1330 to 79-1344 shall be based on the amount granted for the previous fiscal year, and shall be reduced by ten per cent of that amount, and when any such district fails to submit its report by the ~~fifteenth~~ twenty-fifth day of November, it shall forfeit all assistance pursuant to sections 79-1330 to 79-1344 for that year.

(2) No school district shall receive less under sections 79-1330 to 79-1344 on a per pupil in average daily membership basis than (a) during fiscal year 1978, the amount of entitlement pursuant to sections 79-1330 to 79-1344 assuming an appropriation of seventy-five million dollars, (b) during fiscal year 1979, the amount of entitlement pursuant to sections 79-1330 to 79-1344 assuming an appropriation of ninety-five million dollars, or (c) that received during fiscal year 1977 pursuant to sections 79-1330 to 79-1344.

Sec. 2. That section 79-1334, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1334. Each district shall receive financial support from the School Foundation and Equalization Fund as follows: ~~Seventeen---dollars---and---fifty---cents~~ Seventy-five dollars per kindergarten pupil, ~~thirty-five~~ one hundred fifty dollars per pupil in grades one through six, ~~forty-two~~ one hundred seventy-five dollars per pupil in grades seven and eight, and ~~forty-nine~~ two hundred dollars per pupil in grades nine through twelve, the applicable sum for each category to be multiplied by the preceding year's average daily membership of resident and nonresident pupils in each category.

Sec. 3. That section 79-1336, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1336. Subject to the conditions imposed by sections 79-1330 to 79-1344, the School Foundation and Equalization Fund shall be used to insure each district the following total financial support:

(1) ~~Two-hundred-twenty-five~~ Three hundred dollars per kindergarten pupil, ~~four~~ six hundred ~~fifty~~ dollars per pupil in grades one through six, ~~five~~ seven hundred ~~twenty~~ dollars per pupil in grades seven and eight, and ~~five~~ nine hundred ~~fifty~~ sixty dollars per pupil in grades nine through twelve, the applicable sum for each category to be multiplied by the average daily membership for the preceding year of resident and nonresident pupils in each category; and

(2) When the population density in any county school district is less than four persons per square mile, as determined from the most recent federal decennial-census school district census taken in June of the year preceding the year the payment is made, which census has been approved by the county superintendent, the total financial support under subdivision (1) of this section insured for each district ~~in-the-county~~ shall be increased by the following percentages: (a) If the population density is three or more but less than four persons per square mile, ten per cent; (b) if the density is two or more but less than three persons per square mile, twenty per cent; (c) if the density is one or more but less than two persons per square mile, thirty per cent; and (d) if the density is less than one person per square mile, forty per cent; Provided, any qualifying school district within--a--qualifying--county showing a density greater than provided in this subdivision shall not qualify for such percentage increases.

Sec. 4. That section 79-1337, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1337. In its calculations under section 79-1336, a district which provides a special program for (1) gifted children, or (2) culturally and educationally deprived children, shall be entitled to count each pupil regularly enrolled in such programs during the preceding year as one and one-fourth and two students respectively. To qualify for such adjustment, such programs must be approved by the State Board of Education. Criteria for the classification of gifted and culturally and educationally deprived children shall be established by the State Board of Education. In addition, each student eligible to be transported by bus, including those students reassigned by a state or federal court order and according to the provisions of section 79-490, shall be counted as one and one-fourth students.

Sec. 5. That section 79-1338, Revised Statutes Supplement, 1976, be amended to read as follows:

79-1338. From For tabulations relating to equalization aid, from the sum calculated pursuant to section 79-1336, each district shall subtract operating funds obtained from (1) the State--of--Nebraska total amount calculated under section 79-1334, (2) the quantity-levy-prescribed-in-section-79-1335;--Provided, operating-funds-received-from-that-portion-of--the--local tax-levy-which-exceeds-the-minimum-prescribed-in--section 79-1335 shall be--excluded--from--this--computation; the following prescribed mill levies applied to the valuation of all taxable property within the district: (a) For Class I districts operating a program of instruction in grades kindergarten through six in conjunction with a Class VI district, nine mills; (b) for Class I districts organized to offer instruction in grades kindergarten through eight, eleven mills; (c) for Class II, III, IV, and V districts, eighteen mills; (d) for Class VI districts offering instruction in grades seven through twelve, nine mills; and (e) for Class VI districts offering instruction in grades nine through twelve, seven mills, (3) tuition, not to exceed the total financial support provided for those nonresident students pursuant to section 79-1336, (4) fines, including parking meter fines whether received by the district or not, (5) license fees, (6) transportation reimbursements, (7) (6) the Insurance Tax Fund, and (8) (7) funds received under the provisions of Chapter 79, article 13.

Sec. 6. That section 79-1343, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1343. The--funding--requirements--of--section 79-1334--shall--have--first--priority--and--the--funding requirements--of--section--79-1340--shall--have--second priority--on--money--available--from Any funds available for distribution under the School Foundation and Equalization Fund Act shall first be used to fund the requirements of section 79-1340 and the remainder of any appropriation shall be equally distributed to fund the requirements of sections 79-1334 and 79-1339.

Sec. 7. (1) The state shall provide an annual increase of twenty million dollars per year until the School Foundation and Equalization Fund reaches one hundred fifteen million dollars.

(2) It is the intent of the Legislature that there be appropriated seventy-five million dollars to implement the provisions of sections 79-1330 to 79-1344 for the school year 1977 to 1978, and that there be appropriated ninety-five million dollars to implement the provisions of sections 79-1330 to 79-1344 for the school

year 1978 to 1979.

(3) If the provisions of subsection (1) of this section are not complied with, the Legislature shall appropriate the amount of funds sufficient to carry out the provisions of subsection (2) of section 79-1333.

(4) There is hereby appropriated twenty million dollars from the General Fund for the period July 1, 1977, to June 30, 1978 to the School Foundation and Equalization Fund, State Department of Education, Agency No. 13 for Program 143, and forty million dollars from the General Fund for the period July 1, 1978, to June 30, 1979 to the School Foundation and Equalization Fund, State Department of Education, Agency No. 13 for Program 143, to aid in carrying out the provisions of this act.

(9) This section shall be considered as establishing express obligations of the State of Nebraska for the purposes of setting tax rates as provided in section 77-2715.01.

Sec. 8. For the purpose of this act, current operational expenditures shall be defined as total current expense including summer school services and specifically excluding expenditures for (a) capital outlay, (b) community services, (c) adult education programs, (d) debt service, (e) school lunch services, (f) transportation services, (g) capital construction, (h) acquisition funds, and (i) payments of interest and principal on bonded indebtedness.

Sec. 9. The general fund budget of any school district may not be increased over its budget for the preceding year to more than the amount arrived at pursuant to the following computations:

(1) To the amount of salary and salary related items shall be added an amount equal to two per cent of the salary and salary related items and this total shall be changed by a factor or percentage which shall be the change in the Consumer Price Index as established by the United States Department of Labor as of March 31 of each year, which shall set the change factor or percentage for the current school fiscal year;

(2) To the amount of other expenses shall be added an amount equal to two per cent of the other expenses and this total shall be changed by a factor or percentage which shall be the change in the Wholesale Price Index as established by the United States Department of Commerce issued as of March 31 of each year, which shall set the change factor or percentage for

the current school fiscal year, to which may be added an amount by which the average of the preceding five years' expenditures for other expenses exceeds the expenditures for other expenses of the preceding year; and

(3) The amounts resulting from computations pursuant to subdivisions (1) and (2) of this section shall be added together and shall constitute the dollar amount to which the general fund expenditures described in section 79-4,161 may be increased, except that, if there is an increase in student enrollment, the amount determined under this subdivision may be further increased by the percentage increase in student enrollment.

Sec. 10. That section 79-490, Revised Statutes Supplement, 1976, as amended by section 1, Legislative Bill 117, Eighty-fifth Legislature, First Session, 1977, be amended to read as follows:

79-490. When no other means of free transportation is provided to a student attending a public school, an allowance for transportation shall be made to the family of such student by the district in which such family resides as follows: (1) when a student attends an elementary school in his own district and lives more than four miles from the public schoolhouse therein, there shall be paid for each day of attendance forty cents per mile for each mile or fraction thereof actually traveled by which the distance of the residence of such student from the schoolhouse exceeds four miles; (2) when a student is required to attend an elementary school outside of his own district there shall be paid for each day of attendance forty cents per mile for each mile or fraction thereof actually traveled by which the distance to the school in the other district is in excess of the distance to the school in the district of his residence; (3) when a student, other than a student in grades nine through twelve in any Class III district which has an average daily enrollment of ten thousand students or more, attends a secondary school in his own Class II or III school district and lives more than four miles from the public schoolhouse there shall be paid forty cents per mile for each mile or fraction thereof actually traveled by which the distance of the residence of such student from the schoolhouse exceeds four miles; and (4) when a student, other than a student in grades ten through twelve in a Class V district, attends an elementary or junior high school in his own Class V district and lives more than four miles from the public schoolhouse therein, there shall be paid for each day of attendance forty cents per mile for each mile or fraction thereof actually traveled by which the distance of the

residence of such student from the schoolhouse exceeds four miles; and (5) when any school district is ordered by a state or federal court to reassign pupils from their neighborhood attendance unit, any school district affected by such order shall be eligible for a transportation allowance as provided for in the School Foundation and Equalization Act for each student reassigned in all grades, kindergarten through the twelfth grade, regardless of the distance the pupils shall be transported. Where the patrons of a Class VI school district have voted to operate and provide free bus transportation for the pupils of the district, such district shall be eligible for payment for transportation as provided for in the School Foundation and Equalization Act. The number of days the student has attended school shall be reported monthly by the teacher to the school board of such public school district. No more than one allowance shall be made to a family irrespective of the number of students in a family being transported to school. If a family resides in a Class I district which is part of a Class VI district, and has students enrolled in any grade of grades kindergarten through six in the Class I district and in any grade of grades seven and eight in the Class VI district, such family shall receive not more than one allowance for the distance actually traveled when both districts are on the same direct travel route with one district being located a greater distance from the residence than the other. In such cases, the travel allowance shall be prorated among the school districts involved. Unless the parties involved cannot mutually agree, the county superintendent of the district in which the school attended is located shall determine the pro rata share to be paid by each district. In the event the schools attended are in different counties, the respective county superintendents shall determine the proper pro rata amount each district shall pay. No pupil shall be exempt from school attendance on account of distance from the public schoolhouse.

Sec. 11. That section 79-4,161, Revised Statutes Supplement, 1976, be amended to read as follows:

79-4,161. For purposes of sections 79-4,160 to 79-4,168, a school district's general fund expenditures shall be the total disbursements as reported on the annual finance report for that district less amounts disbursed for:

- (1) The payment of principal, interest, and any other charge for or on bonded indebtedness;
- (2) Expenditure for utilities excluding-telephone expenses;

(3) The district's share of social security tax and retirement;

(4) That part of programs or activities funded in whole or in part by the United States government or its agencies but not for programs or activities funded in whole or in part by the State of Nebraska or any of its political subdivisions;

(5) Federal funds transferred to school lunch or transportation programs; and

~~(6) Special education programs implemented after the 1972-73 school year to meet the requirements of sections 43-604, 43-609, 43-620, 43-625, 43-627, 43-641 to 43-660, and 74-444.~~

(6) Any education program mandated pursuant to a state or federal law, or pursuant to a rule or regulation of an agency of the state or federal government; and

(7) Any expenditures attributable to activities ordered by state or federal courts.

Sec. 12. That section 79-4,166, Revised Statutes Supplement, 1976, be amended to read as follows:

79-4,166. In making computations required pursuant to sections 79-4,160 to 79-4,168, the school districts shall use estimates whenever final figures are not available, but when final figures become available the amounts shall be recomputed. If the recomputation shows that lower expenditures were required than was estimated, the amount of difference shall be determined. If expenditures are made in excess of the amount permitted under sections 79-4,160 to 79-4,168, the State Board of Education through the State Department of Education shall for each dollar of excess expenditure subtract one dollar from any state funds being distributed to such district for general school purposes. The amounts so subtracted shall revert to the state General Fund. Such subtraction shall be from such funds next distributed to the school district and such district shall not use such excess expenditures in computing its succeeding general fund expenditures or expenditure limitation, but no deduction shall be made from any funds required by the Constitution of the State of Nebraska to be paid to such district.

Sec. 13. That original sections 79-1334, 79-1336, 79-1337, and 79-1343, Reissue Revised Statutes of Nebraska, 1943, sections 79-4,161, 79-4,166, 79-1333, and 79-1338, Revised Statutes Supplement, 1976, and

section 79-490, as amended by section 1, Legislative Bill 117, Eighty-fifth Legislature, First Session, 1977, and also sections 79-1335, 79-1340, and 79-1344.01, Reissue Revised Statutes of Nebraska, 1943, and sections 79-4,160 and 79-4,164, Revised Statutes Supplement, 1976, are repealed.