

LEGISLATIVE BILL 207

Approved by the Governor June 6, 1991

Introduced by Baack, 47

AN ACT relating to schools and school districts; to amend sections 79-488.04 and 79-1103.05, Reissue Revised Statutes of Nebraska, 1943, and sections 79-3403, 79-3405, 79-3407, 79-3409, and 79-3410, Revised Statutes Supplement, 1990; to change and eliminate provisions relating to payment of nonresident high school tuition as prescribed; to change provisions relating to participation in the enrollment option program, acceptance of applications and waiver of deadlines relating to the program, and transportation reimbursement under the program; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 79-488.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-488.04. The Except as otherwise provided in this section, the school board of any school district may authorize the use of buses belonging to such district for the transportation of public school children residing outside such district. A fee sufficient to pay all costs of such transportation shall be charged each person so transported. The school board shall prepare a schedule of all such fees charged, and a copy of such schedule shall be filed in the office of the county superintendent of schools for the county in which such district is maintained. The individual members of the school board shall be personally liable for any expense incurred by the district if the fees so charged are insufficient to cover the additional cost incurred in furnishing such transportation, except that such penalty shall not apply the first two years of operation. The cost of school bus operation shall be determined by dividing the actual cost of the total bus operation plus one-fifth of the original cost of the bus for depreciation by the total number of miles traveled by each pupil for the average of the two school years

immediately preceding. This section shall not apply to an agreement regarding reimbursement payments for transportation entered into pursuant to section 79-3410.

Sec. 2. That section 79-1103.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1103.05. (1) When application is made in writing by the parent or guardian of a pupii student subject to the provisions of this section, the board of education of any Class VI school district of the sixth class maintaining an accredited high school may pay the regular high school tuition or such portion thereof as may be agreed upon by the respective governing bodies for any pupii student residing in such school district and attending an accredited or approved high school in this state outside such school district a school district outside this state when such high school outside this state is shall be located at least ten miles closer to the place of residence of such pupii student than the school maintained by such Class VI school district and when, in the opinion of the board of education, the best interest of such pupii student or such Class VI school district may so require. When the school attended is outside this state, the board of education may pay the regular high school tuition or such portion thereof as may be agreed upon by the respective governing bodies.

(2) Any parent or guardian of such student who is aggrieved by a decision of the board of education may appeal such decision to the State Board of Education. If the State Board of Education determines that it would be in the best interest of such student to attend a school outside the State of Nebraska this state, fifty percent of the high school tuition for such student shall be paid by the State Department of Education from funds budgeted and appropriated for such purpose. Such funds shall not exceed five thousand three hundred seventy-five dollars. In the event that appropriated funds are insufficient to provide fifty percent of the high school tuition as required under the provisions of this section, the appropriated funds shall be prorated among the students who qualify under this section.

Sec. 3. That section 79-3403, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3403. (1) An enrollment option program is hereby established to enable any Nebraska student to attend a school in a Nebraska public school district in which the student does not reside subject to the

limitations prescribed in section 79-3407. The option shall be available only once to each student prior to graduation unless ~~{1}~~ (a) the student relocates in a different resident school district, ~~{2}~~ (b) the option school district merges with another district, or ~~{3}~~ (c) the option school district is a Class I district. The option student shall be given the option to attend school in another district at the time of relocation or merger or upon completion of the grades offered at the Class I district.

(2) ~~This~~ program shall not apply to (a) any student in the ninth, tenth, eleventh, or twelfth grade who resides in a Class I district that is not part of a Class VI district ~~or to a~~ and has not affiliated with a high school district as defined in section 79-101.02 pursuant to the Reorganization of School Districts Act, (b) any student who resides in a district which contracts or has contracted in either or both of the two prior school years with another district or districts in such student's grade level pursuant to section 79-486, or (c) any student who resides in a district which has entered into an annexation agreement pursuant to section 79-801, except that such student may transfer to another district which accepts option students.

Sec. 4. That section 79-3405, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3405. (1) For the 1990-91 school year, participation in the enrollment option program shall be voluntary and shall be agreed upon by both the resident school district and the option school district.

(2) For the 1991-92 school year, participation in the ~~enrollment option~~ program shall be voluntary on the part of the option school district. The resident school district shall be required to participate in the program until more than five percent of the students, based upon resident enrollment set out in the fall school district membership report required by law, choose to attend option school districts at which time the resident school district may choose not to participate further in the program.

(3) For the 1992-93 school year, participation in the ~~enrollment option~~ program shall be voluntary on the part of the option school district. The resident school district shall be required to participate in the program until an additional five percent of the students, based upon resident enrollment set out in the fall school district membership report required by law,

choose to attend option school districts at which time the resident school district may choose not to participate further in the program.

(4) Beginning with the 1993-94 school year, the enrollment option program shall be implemented by all public school districts.

(5) In no event shall the number of students who may participate in the enrollment option program from the resident school district be less than one student for the 1991-92 school year and for the 1992-93 school year.

(6) For purposes of subsections (2) and (3) of this section, if a resident school district has more than five percent of its students apply for participation in the program, priority for participation shall be given to siblings of option students.

Sec. 5. That section 79-3407, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3407. The (1) Except as provided in section 79-3409, the school board or board of education of the option school district shall adopt by resolution specific standards for acceptance and rejection of applications. Standards may include the capacity of a program, class, grade level, or school building or the availability of appropriate special education programs operated by the option district. Capacity shall be determined by setting a maximum number of option students that a district will accept in any program, class, grade level, or school building, based upon available staff, facilities, projected enrollment of resident students, projected number of students with which the option district will contract based on existing contractual arrangements, and availability of appropriate special education programs. The school board or board of education of the option school district may by resolution declare a program, a class, or a school unavailable to option students due to lack of capacity. Standards shall not include previous academic achievement, athletic or other extracurricular ability, handicapping conditions, proficiency in the English language, or previous disciplinary proceedings.

(2) A school district that has a desegregation plan adopted by the school board or the board of education or ordered by the federal court may limit the number of students who transfer into or out of the school district. The school board or board of education of such school district shall adopt specific standards for acceptance and rejection of applications for

transfer into or out of such district. Standards shall be designed to facilitate the school district's desegregation plan and maintain or improve the integration of the school district.

(3) Any option school district shall give first priority for enrollment to option students whose request for enrollment would aid the racial integration of the option school district and the resident school district and to siblings of option students, except that the option school district shall not be required to accept the sibling of an option student if the district is at capacity.

(4) For purposes of this section, racial integration is aided if a student transfers to an option school district in which his or her race is a smaller percentage of the total student enrollment of the option school district than it is of the student's resident school district.

Sec. 6. That section 79-3409, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3409. (1) Upon agreement of the school boards or boards of education of the resident school district and the option school district, the deadlines for application and approval or rejection prescribed in sections 79-3406 and 79-3408 may be waived.

(2) The application of a student who relocates in a different school district but wants to continue attending his or her original resident school district and who has been enrolled in his or her original resident school district for the immediately preceding two years shall be automatically accepted, and the deadlines prescribed in sections 79-3406 and 79-3408 shall be waived.

(3) The application of an option student who relocates in a different school district but wants to continue attending the option school district shall be automatically accepted, and the deadlines prescribed in sections 79-3406 and 79-3408 shall be waived. Beginning with the 1993-94 school year, the deadlines in sections 79-3406 and 79-3408 shall be automatically waived if the option student relocates in a different resident school district during the school year but wishes to continue attending the option school district.

Sec. 7. That section 79-3410, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3410. (1) Except as provided in subsection (2) of this section, section 79-490 shall not apply to

the transportation of an option student. The parent or legal guardian of the option student shall be responsible for required transportation. A school district may upon mutual agreement with the parent or legal guardian of a an option student provide transportation to the option student.

(2) Parents or guardians of option students who qualify for free or reduced-price lunches shall be eligible for transportation reimbursement as described in section 79-490, which reimbursement shall be made by the State Department of Education. Parents or guardians of qualified option students shall complete a form prescribed by the department. If a parent or guardian of a qualified option student has an agreement with a district for the provision of transportation and the parent or guardian and the district agree, the reimbursement payment shall be made to the district providing such transportation and shall include reimbursement only for those miles actually traveled beyond the normal route. Reimbursement Payment shall be made to the parent or guardian in two approximately equal payments on or before January 30 and on or before June 30 for expenses incurred during the current school year. If sufficient funds are not appropriated to fully fund the provisions of this section, the department shall make a proportionate reduction in each payment made pursuant to this section.

(3) For option students verified as handicapped as defined in section 79-3309, the transportation services set forth in section 79-3322 shall be provided by the resident school district. The department shall reimburse the resident school district for the cost of transportation in accordance with section 79-3333.

Sec. 8. Sections 2 and 9 of this act shall become operative on July 1, 1993. The other sections of this act shall become operative on their effective date.

Sec. 9. That original section 79-1103.05, Reissue Revised Statutes of Nebraska, 1943, is repealed.

Sec. 10. That original section 79-488.04, Reissue Revised Statutes of Nebraska, 1943, and sections 79-3403, 79-3405, 79-3407, 79-3409, and 79-3410, Revised Statutes Supplement, 1990, are repealed.

Sec. 11. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.