

LEGISLATIVE BILL 839

Approved by the Governor June 10, 1993

Introduced by Appropriations Committee: Moore, 24, Chairperson;
Ashford, 6; Avery, 3; Bernard-Stevens, 42;
Crosby, 29; Hillman, 48; Hohenstein, 17;
Lynch, 13; Wehrbein, 2

AN ACT relating to schools; to amend section 79-446, Reissue Revised Statutes of Nebraska, 1943, and sections 79-101.01, 79-438.12, 79-1303, and 79-3806, Revised Statutes Supplement, 1992; to define a term; to change provisions relating to orders to change school district boundaries; to provide for a common levy for a Class VI school system as prescribed; to change provisions relating to valuation of school and saline lands; to eliminate reimbursement of tuition by the state for children of parents residing on tax-exempt, state-owned airfields, children of certain federal employees, and children of persons in military service; to eliminate reimbursement of tuition by a city for children of parents residing on tax-exempt, city-owned airfields; to harmonize provisions; to provide operative dates; to repeal the original sections, and also sections 79-446.01 to 79-448, Revised Statutes Supplement, 1992; and to declare an emergency.

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

Section 1. That section 79-101.01, Revised Statutes Supplement, 1992, be amended to read as follows:

79-101.01. (1) For purposes of statutes governing schools:

(a) Affiliated school system shall mean the high school district and the Class I districts or portions of Class I districts affiliated with such high school district; and

(b) Affiliation or affiliation of school districts shall mean an ongoing association of a Class I district or portion thereof not a part of a Class VI district with one or more existing Class II, III, IV, or V districts for the purpose of (i) providing a high school program serving the Class I district students and (ii) maintaining tax support to finance such program. The services provided may include student transportation; and

(c) Class VI school system shall mean a Class VI school district and each Class I school district or portion thereof which is part of the Class VI district.

(2) Beginning January 1, 1992, any school district boundaries changed by ~~any of~~ the means provided by Nebraska law, including the methods provided by sections 79-102.01, 79-102.02, 79-402, 79-402.03 to 79-402.10, 79-402.17, 79-402.19, 79-402.20, 79-403 to

79-403.03, 79-406, 79-407, 79-408, 79-408.01 to 79-408.03, 79-409, 79-420, 79-421, 79-426.01 to 79-426.19, 79-426.23 to 79-426.26, 79-426.28, 79-480 to 79-482, 79-486, 79-512, 79-533, 79-603, 79-701, 79-1107, and 79-1108 but excluding the method provided by sections 79-801 to 79-810.01, shall be made only upon an order issued by the county superintendent. If the boundaries so changed are in more than one county, such order shall be issued jointly by the county superintendents of all counties involved. The order shall be certified to the county clerk of each county in which boundaries are changed and shall also be certified to the State Department of Education. Such order shall be issued no later than between January 1 and June 1 of the current school fiscal year and shall have an effective date no later than August 1 of the ~~current school fiscal~~ same year. For purposes of the school district boundary map provided by the county superintendent pursuant to section 23-3306, determining school district counts pursuant to section 79-458, calculating nonresident high school tuition pursuant to section 79-4,102, and calculating state aid allocations pursuant to the Tax Equity and Educational Opportunities Support Act, any change in school district boundaries with an effective date between June 1 and August 1 of any year shall be considered effective June 1 of such year.

(3) Unless otherwise provided by state law or by the terms of an affiliation or reorganization plan or petition which ~~are~~ is consistent with state law, all assets, including budget authority as provided in sections 79-3814 to 79-3821, and liabilities, except bonded obligations, of school districts merged, dissolved, or annexed shall be transferred to the receiving district or districts on the basis of the proportionate share of assessed valuation received at the time of reorganization. When a Class II, III, IV, or V school district becomes a Class I school district:

(a) Which becomes part of a Class VI district which offers instruction in grades seven through twelve, 44.8276 percent of the Class II, III, IV, or V district's assets and liabilities shall be transferred to the new Class I district and the remainder shall be transferred to the Class VI district or districts of which the Class I district becomes a part on the basis of the proportionate share of assessed valuation each high school district received at the time of such change in class of district;

(b) Which is affiliated or becomes part of a Class VI district which offers instruction in grades nine through twelve, 61.3793 percent of the Class II, III, IV, or V school district's assets and liabilities shall be transferred to the new Class I district and the remainder shall be transferred to the Class VI district or districts of which the Class I district becomes a part and to the high school district or districts with which the Class I district is affiliated on the basis of the proportionate share of assessed valuation each high school district received at the time of such change in class of district; or

(c) Which is not affiliated and is not part of any Class VI district, the new Class I district shall retain 61.3793 percent of the Class II, III, IV, or V school district's budget authority as provided in sections 79-3814 to 79-3821.

Sec. 2. Commencing with the 1995-96 school year, the general fund property tax requirement of the Class VI school district and each Class I school district or portion thereof in a Class VI school system shall be certified to the county superintendent and county clerk for computation of a Class VI school system tax levy. The proceeds of such levy, upon collection by the county, shall be distributed to the districts in the Class VI school system in amounts which are in proportion to the amounts of the general fund property tax requirement certified by such districts to the county superintendent and county clerk. Such levy shall be computed as follows: The sum of the property tax requirements necessary to fund the general fund property tax requirement of the Class VI school system shall be divided by the assessed valuation, in hundreds, of the system. If only a portion of a Class I district is part of the Class VI district, such Class I district's general fund property tax requirement shall be apportioned to respective portions of such Class I district for purposes of this computation based on each portion's assessed taxable valuation in relation to the total assessed valuation of the entire Class I district.

Sec. 3. That section 79-438.12, Revised Statutes Supplement, 1992, be amended to read as follows:

79-438.12. (1) Whenever the affiliation of a Class I district or portion thereof becomes final, the general fund property tax requirement of the high school district and each Class I district or portion thereof in an affiliated school system shall be certified to the county superintendent and county clerk for computation of an affiliated school system tax levy. The proceeds of such tax levy, upon collection by the county, shall be distributed to the districts in the affiliated school system in amounts which are in proportion to the amounts of the general fund property tax requirements certified by such districts to the county superintendent and county clerk. Such tax levy shall be computed as follows:

(a) If one or more Class I districts affiliate with only one high school district, the sum of the general fund property tax requirements of the high school district and all such Class I districts shall be divided by the sum of the assessed valuation, in hundreds, of all such districts; or

(b) If a Class I district or portion thereof affiliates with more than one high school district, such Class I district's general fund property tax requirement shall be apportioned to respective portions of such Class I district for purposes of this computation based on each portion's assessed taxable valuation in relation to the total assessed valuation of all affiliated portions of the Class I district certified by the county clerk pursuant to section 79-433, and the affiliated school system tax levy shall be computed as though it were a single district as prescribed in subdivision (a) of this subsection.

(2) When a Class I district or portion thereof affiliates in part with one or more districts and in part becomes a part of one or more Class VI districts, the tax levy assessed on taxable property within the Class I district to fund the portion of the budget of the Class I district which is to come from the general fund property tax requirement shall be

made as follows:

(a) The proportionate share of the Class I district budget allocable to any affiliated system shall be assessed on all property within such affiliated system as described in this section; and

~~(b)(i) For the 1992-93, 1993-94, and 1994-95 school years, the~~ The proportionate share of the Class I general fund property tax requirement not allocable to any affiliated system shall be divided by the assessed valuation, in hundreds, of the property of the Class I district which is not affiliated. The resulting tax levy shall be assessed upon all taxable property in the portion of the Class I district which is not affiliated.

~~(ii) Beginning with the 1995-96 school year, the proportionate share of the Class I general fund property tax requirement not allocable to any affiliated system shall be assessed in accordance with section 2 of this act.~~

Sec. 4. That section 79-446, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-446. In all cases ~~where~~ when any officer or enlisted ~~man~~ member of the United States Army, Navy, Marine Corps, or Air Force is on active duty in the State of Nebraska and is residing on property acquired by the United States pursuant to Chapter 72, article 6, prior to the repeal of such article by Laws 1969, Chapter 593, the children of any such officer or enlisted ~~man~~ member who are of school age may be admitted to any of the public schools in any school district, in, near, or adjacent to the place where such officer or enlisted ~~man~~ member is stationed; so long as such officer or enlisted ~~man~~ member may be on active duty in Nebraska, and such children may be admitted to the public schools of any such district without payment of tuition.

The provisions of this section ~~and sections 79-447 and 79-448~~ shall also apply to children of parents employed by the federal government and residing with their parents on national parks or national monuments within this state.

Sec. 5. That section 79-1303, Revised Statutes Supplement, 1992, be amended to read as follows:

79-1303. (1) In making the apportionment under section 79-1302, the Commissioner of Education shall distribute from the school fund for school purposes, to any and all school districts and to the nonresident high school tuition fund of counties in which there are situated school lands which have not been sold and transferred by deed or saline lands owned by the state, an amount in lieu of tax money that would be raised if such lands were taxable, to be ascertained in accordance with subsection (2) of this section, except that;

~~(a) For~~ ~~for~~ Class I districts or portions thereof which are affiliated and in which there are situated school or saline lands, 38.6207 percent of the in lieu of land tax money calculated pursuant to subsection (2) of this section, based on the affiliated school system tax levy computed pursuant to section 79-438.12, shall be distributed to the affiliated high school district and the remainder shall be distributed to the Class I

district; -

(b) For Class I districts or portions thereof which are part of a Class VI district which offers instruction in grades nine through twelve and in which there are situated school or saline lands, 38.6207 percent of the in lieu of land tax money calculated pursuant to subsection (2) of this section, based on the Class VI school system levy computed pursuant to section 2 of this act, shall be distributed to the Class VI district and the remainder shall be distributed to the Class I district; and

(c) For Class I districts or portions thereof which are part of a Class VI district which offers instruction in grades seven through twelve and in which there are situated school or saline lands, 55.1724 percent of the in lieu of land tax money calculated pursuant to subsection (2) of this section, based on the Class VI school system levy computed pursuant to section 2 of this act, shall be distributed to the Class VI district and the remainder shall be distributed to the Class I district.

(2) The county superintendents shall certify to the Commissioner of Education the tax levy for school purposes of each school district and the nonresident high school tuition levy of the county in which the school land or saline land is located and the last appraised value of such school land, which value shall be ~~one hundred forty-three percent of the appraised value~~ the same percentage of the appraised value as the percentage of the assessed value is of market value in section 77-1360.01 for the purpose of applying the applicable tax levy for each district and for the nonresident high school tuition fund in determining the distribution to the districts and to the nonresident high school tuition fund of the counties of such amounts. The board of any school district; ~~wherein~~ in which there is located any leased or undeeded school land or saline land subject to ~~the provisions of~~ this section; may appeal to the Board of Educational Lands and Funds for a reappraisal of such school land if such school board deems the land not appraised in proportion to the value of adjoining land of the same or similar value. The Board of Educational Lands and Funds shall proceed to investigate the facts involved in such appeal and, if the contention of the school board is correct, make the proper reappraisal. The value calculation in this subsection shall be used by the Commissioner of Education for making distributions in the 1992-93 school year and every year thereafter.

Sec. 6. That section 79-3806, Revised Statutes Supplement, 1992, be amended to read as follows:

79-3806. (1) Except as provided in subsections (2) through ~~(6)~~ (7) of this section, each district shall receive equalization aid in the amount that the total formula need of each district, as determined pursuant to ~~subsection (4)~~ subsections (5) and (6) of this section and sections 79-3805 and 79-3807, exceeds its total formula resources as determined pursuant to ~~subsection (4)~~ subsections (5) and (6) of this section and sections 79-3808 to 79-3811.

(2) A district shall not receive state aid for each of the school years 1992-93, 1993-94, and 1994-95 which is less than one hundred percent of the amount of aid received pursuant to the School

Foundation and Equalization Act for school year 1989-90.

(3) No district shall receive equalization aid in an amount such that total state aid received would result in such district having a general fund tax levy of less than sixty percent of the local effort rate as computed pursuant to section 79-3808. The calculation shall be based on valuation, state aid, and levy data from the current school year and, for the calculation of state aid in school year 1992-93 and each school year thereafter, shall also take into consideration the amounts of nonresident high school tuition certified by the department pursuant to section 79-4,102 for the current school year and for the school year in which such state aid is to be paid.

(4) For the calculation of state aid to be paid in school year 1993-94 and each school year thereafter in Class I districts which have more than one general fund levy in the current year, the department shall base the calculation on a derived general fund levy for the district computed by adding the general fund property tax yield for all portions of the district and dividing the result by the total assessed valuation of the district in hundreds.

(5) For school districts or portions thereof in Class VI school systems as defined in section 79-101.01, equalization aid to be paid in school year 1995-96 and each school year thereafter shall be computed as follows:

(a) For Class I districts, the total formula need and total formula resources shall be allocated to each Class VI school system based upon the proportion of such Class I district's adjusted valuation contained in each Class VI school system;

(b) For the Class VI district and each Class I district or portion thereof allocated pursuant to subdivision (a) of this subsection, the total formula resources shall be subtracted from the total formula need, except that the difference shall never be less than zero;

(c) Each district's total formula need, total formula resources, and difference calculated pursuant to subdivision (b) of this subsection shall be added to arrive at system formula need, system formula resources, and system total difference;

(d) System equalization aid shall equal the amount by which the system formula need exceeds system formula resources; and

(e) Each district's share of the system equalization aid shall be calculated by dividing the district's difference calculated pursuant to subdivision (b) of this subsection by the system total difference and multiplying the result by the system equalization aid.

(6) For school districts in affiliated school systems as defined in section 79-101.01, equalization aid to be paid in school year 1992-93 and each school year thereafter shall be computed as follows:

(a) For affiliated Class I districts, the total formula need and total formula resources shall be allocated to each affiliated school system based upon the proportion of such Class I district's adjusted valuation contained in each system with which it is affiliated;

(b) For the high school district and each Class I district or

portion thereof allocated pursuant to subdivision (a) of this subsection, the total formula resources shall be subtracted from the total formula need, except that the difference shall never be less than zero;

(c) Each district's total formula need, total formula resources, and difference calculated pursuant to subdivision (b) of this subsection shall be added to arrive at system formula need, system formula resources, and system total difference;

(d) System equalization aid shall equal the amount by which the system formula need exceeds system formula resources; and

(e) Each district's share of the system equalization aid shall be calculated by dividing the district's difference calculated pursuant to subdivision (b) of this subsection by the system total difference and multiplying the result by the system equalization aid.

(7) (5) Beginning with school year 1994-95, a district which does not generate equalization aid pursuant to subsection (1) of this section and in which option students as defined in section 79-3402 were actually enrolled in the most recently available complete data year shall receive additional state aid for each such student in an amount equal to the statewide average tiered cost per student or the option district's tiered cost per student, whichever is less.

(8) (6) For school years 1992-93 and 1993-94, a district which does not generate equalization aid pursuant to subsection (1) of this section and in which option students as defined in section 79-3402 were actually enrolled in the most recently available complete data year shall receive additional state aid computed by first multiplying the number of such option students, by grade group, by the district's tiered cost per student for each grade group and then summing the results for all grade groups in the district. The district shall receive additional state aid equal to the amount by which this calculation exceeds the district's actual receipts pursuant to section 79-3415 in the most recently available complete data year.

Sec. 7. Sections 4 and 8 of this act shall become operative on July 1, 1993. The other sections of this act shall become operative on their effective date.

Sec. 8. That original section 79-446, Reissue Revised Statutes of Nebraska, 1943, and also sections 79-446.01 to 79-448, Revised Statutes Supplement, 1992, are repealed.

Sec. 9. That original sections 79-101.01, 79-438.12, 79-1303, and 79-3806, Revised Statutes Supplement, 1992, are repealed.

Sec. 10. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.