

LEGISLATIVE BILL 930

Approved by the Governor March 15, 1994

Introduced by Rasmussen, 20; Hall, 7; Will, 8; Monen, 4

AN ACT relating to the school enrollment option program; to amend sections 79-3401 and 79-3407, Revised Statutes Supplement, 1992; to state intent; to change provisions relating to school districts which have desegregation plans; 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 79-3401, Revised Statutes Supplement, 1992, be amended to read as follows:

79-3401. (1) The Legislature hereby finds and declares that parents and legal guardians have the primary responsibility of ensuring that their children receive the best education possible. In recognition of this responsibility, the Legislature intends to provide educational options for parents and legal guardians, when deciding what public school or public school district is best for their children, by allowing them to consider the following factors, including, but not limited to:

- (a) (1) The size of the schools and school districts in the area;
- (b) (2) The distance children have to travel and the ease and availability of transportation;
- (c) (3) The course offerings and extracurricular offerings of the schools and school districts in the area;
- (d) (4) The quantity and quality of the staff at such schools and school districts; and
- (e) (5) The performance of the school district on any indicators of performance established by the State Department of Education.

(2) The Legislature also finds and declares that desegregation and racial integration in the public schools are of critical importance for the future of this state and that those school districts with desegregation plans may, as authorized in section 79-3407, adopt standards which deny the educational options for parents and that such school districts are not required to consider, in denying such options, any of the factors in subsection (1) of this section or any other factors considered by parents or legal guardians in seeking enrollment for a child in a school district in which they do not reside.

Sec. 2. That section 79-3407, Revised Statutes Supplement, 1992, be amended to read as follows:

79-3407. (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 which are designed to facilitate the school district's desegregation plan and maintain or improve the integration of the school district make desegregation easier to maintain or improve. Desegregation is made easier to maintain or improve by standards which, considering all requests for transfer into or out of the school district received prior to the school district's application deadline established in conformity with section 79-3406 or 79-3409, prohibit transfers

which if granted would increase the racial percentage in the school district's total enrollment of the minority group for whom the desegregation plan was ordered or adopted. Any such standards may apply to students residing within the school district who seek to transfer to a school in another school district and to students who reside in another district who seek to transfer into a school district which has a desegregation plan.

(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 except as provided in subsections (2) and (4) of section 79-3409.

(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. 3. That original sections 79-3401 and 79-3407, Revised Statutes Supplement, 1992, are repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.