

LEGISLATIVE BILL 394

Approved by the Governor April 2, 2003

Introduced by McDonald, 41; Erdman, 47; Jones, 43; Kremer, 34; Louden, 49;
Stuhr, 24; Stuthman, 22

AN ACT relating to schools; to amend sections 79-102, 79-403, 79-411, 79-419, 79-479, 79-611, and 79-1036, Revised Statutes Supplement, 2002, and section 79-528, Revised Statutes Supplement, 2002, as amended by section 6, Legislative Bill 67, Ninety-eighth Legislature, First Session, 2003; to change provisions relating to grade offerings for Class VI schools; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 79-102, Revised Statutes Supplement, 2002, is amended to read:

79-102. School districts in this state are classified as follows:

(1) Class I includes any school district that maintains only elementary grades under the direction of a single school board;

(2) Class II includes any school district embracing territory having a population of one thousand inhabitants or less that maintains both elementary and high school grades under the direction of a single school board;

(3) Class III includes any school district embracing territory having a population of more than one thousand and less than one hundred fifty thousand inhabitants that maintains both elementary and high school grades under the direction of a single school board;

(4) Class IV includes any school district embracing territory having a population of one hundred thousand or more inhabitants with a city of the primary class within the territory of the district that maintains both elementary and high school grades under the direction of a single school board;

(5) Class V includes any school district embracing territory having a population of two hundred thousand or more inhabitants with a city of the metropolitan class within the territory of the district that maintains both elementary grades and high school grades under the direction of a single school board; and

(6) Class VI includes any school district in this state that maintains only a high school, or a high school and grades seven and eight or six through eight as provided in section 79-411, under the direction of a single school board.

Sec. 2. Section 79-403, Revised Statutes Supplement, 2002, is amended to read:

79-403. (1) Except as provided in subsections (2) and (3) of this section, no new school district shall be created unless such district provides instruction in kindergarten through grade twelve.

(2) A new Class VI school district may be created if:

(a) Such Class VI school district will include at least two or more previously existing Class II or Class III school districts, except that if a reorganization petition for formation of a Class VI school district is initiated by a petition signed by ~~sixty-five~~ fifty-five percent of the legal voters of a Class II or III school district, then such Class VI school district may include only one Class II or III school district; and

(b) The enrollment of the new Class VI school district is (i) at least one hundred twenty-five pupils if the district offers instruction in grades nine through twelve, ~~or~~ (ii) at least one hundred seventy-five pupils if the district offers instruction in grades seven through twelve, or (iii) at least two hundred students if the district offers instruction in grades six through twelve, except that if such district will have population density of less than three persons per square mile, then the enrollment shall be at least seventy-five students if the district offers instruction in grades nine through twelve, ~~or~~ at least one hundred students if the district offers instruction in grades seven through twelve, or at least one hundred twenty-five students if the district offers instruction in grades six through twelve.

(3) One or more new Class I districts may be created as a part of a reorganization petition pursuant to subsection (2) of this section.

Sec. 3. Section 79-411, Revised Statutes Supplement, 2002, is amended to read:

79-411. The legal voters of any Class VI school district may, by a fifty-five percent majority affirmative vote of those voting on the issue at a special election of the district, extend the grade offerings of that district to include grades seven and eight or grades six through eight. Such election shall be conducted by the county clerk or election commissioner in accordance with the Election Act. If the issue receives such fifty-five percent majority affirmative vote, the school district shall then be known as a Class VI junior-senior high school district and shall be supported in the same manner as was provided for the support of the district previous to the extension of its grade offerings. In such an election, the legal voters of all Class I school districts in which there is located an incorporated city or village shall vote separately and the remaining Class I school districts shall vote separately as a unit either for a plan for the individual district or with more districts as determined by the vote by the election. Fifty-five percent of the votes cast in each voting unit shall be in favor of the proposition to put such a plan into operation.

Sec. 4. Section 79-419, Revised Statutes Supplement, 2002, is amended to read:

79-419. (1) When a new district is to be created from other districts as provided in section 79-413, the petition shall contain:

(a) A description of the proposed boundaries of the reorganized districts;

(b) A summary of the terms on which reorganization is to be made between the reorganized districts, which terms may include a provision for initial school board districts or wards within the proposed district for the appointment of the first school board and also for the first election as provided in section 79-451, which proposed initial school board districts or wards shall be determined by the State Committee for the Reorganization of School Districts taking into consideration population and valuation, and a determination of the terms of the board members first appointed to membership of the board of the newly reorganized district;

(c) A map showing the boundaries of established school districts and the boundaries proposed under any plan or plans of reorganization;

(d) A separate statement as to whether the reorganization is contingent upon the success of a bond election held in conjunction with the reorganization;

(e) An affidavit from the county clerk or election commissioner regarding the validity of the signatures on the petition; and

(f) Such other matters as the petitioners determine proper to be included. Any petition for the creation of a new Class VI district shall designate whether such district shall include high school grades only, ~~or~~ grades seven through twelve, or grades six through twelve.

(2) A petition under subsection (1) of this section may contain provisions for the holding of school within existing buildings in the newly reorganized district and that a school constituted under this section shall be maintained from the date of reorganization unless the legal voters served by the school vote by a majority vote for discontinuance of the school.

Sec. 5. Section 79-479, Revised Statutes Supplement, 2002, is amended to read:

79-479. (1)(a) Beginning January 1, 1992, any school district boundaries changed by the means provided by Nebraska law, but excluding the method provided by sections 79-407, 79-473 to 79-475, and 79-549, shall be made only upon an order issued by the State Committee for the Reorganization of School Districts or county clerk. The state committee shall not issue an order changing boundaries relating to affiliation of school districts if twenty percent or more of any tract of land under common ownership which is proposing to affiliate is not contiguous to the high school district with which affiliation is proposed unless (i) one or more resident students of the tract of land under common ownership has attended the high school program of the high school district within the immediately preceding ten-year period or (ii) approval of the petition or plan would allow siblings of such resident students to attend the same school as the resident students attended.

(b) The order issued by the state committee 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. Whenever the order changes the boundaries of a school district due to the transfer of land, the county assessor, the Property Tax Administrator, and the State Department of Education shall be provided with the legal description and a map of the parcel of land which is transferred. Such order shall be issued no later than June 1 and shall have an effective date no later than August 1 of the same year. For purposes of determining school district counts pursuant to sections 79-524 and 79-578 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.

(2) Unless otherwise provided by state law or by the terms of an affiliation or reorganization plan or petition which is consistent with state law, all assets, including budget authority as provided in sections 79-1023 to 79-1030, 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 six through twelve, 37.9310 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 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; or

~~(b)~~ (c) 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.

Sec. 6. Section 79-528, Revised Statutes Supplement, 2002, as amended by section 6, Legislative Bill 67, Ninety-eighth Legislature, First Session, 2003, is amended to read:

79-528. (1) (a) On or before July 20 in all school districts, the superintendent or head administrator shall file with the State Department of Education a report under oath showing the number of children from five through eighteen years of age belonging to the school district according to the census taken as provided in sections 79-524 and 79-578. The report shall identify the number of boys and the number of girls in each of the respective age categories.

(b) Each Class I school district which is part of a Class VI school district offering instruction ~~(a)~~ (i) in grades kindergarten through five shall report children from five through ten years of age, (ii) in grades kindergarten through six shall report children from five through eleven years of age, and ~~(b)~~ (iii) in grades kindergarten through eight shall report children from five through thirteen years of age.

(c) Each Class VI school district offering instruction (i) in grades six through twelve shall report children who are eleven through eighteen years of age, (ii) in grades seven through twelve shall report children who are twelve through eighteen years of age, and ~~(ii)~~ (iii) in grades nine through twelve children who are fourteen through eighteen years of age.

(d) Each Class I district which has affiliated in whole or in part shall report children from five through thirteen years of age.

(e) Each Class II, III, IV, or V district shall report children who are fourteen through eighteen years of age residing in Class I districts or portions thereof which have affiliated with such district.

(f) The board of any district neglecting to take and report the enumeration shall be liable to the school district for all school money which such district may lose by such neglect.

(2) On or before June 30 the superintendent or head administrator of each school district shall file with the Commissioner of Education a report under oath described as an end-of-the-school-year annual statistical summary showing (a) the number of children attending school during the year under five years of age, (b) the length of time the school has been taught during the year by a qualified teacher, (c) the length of time taught by each substitute teacher, and (d) such other information as the Commissioner of Education directs.

(3) On or before November 1 the superintendent or head administrator

of each school district shall submit to the Commissioner of Education, to be filed in his or her office, a report under oath described as the annual financial report showing (a) the amount of money received from all sources during the year and the amount of money expended by the school district during the year, (b) the amount of bonded indebtedness, (c) such other information as shall be necessary to fulfill the requirements of the Tax Equity and Educational Opportunities Support Act and section 79-1114, and (d) such other information as the Commissioner of Education directs.

(4) On or before October 15 of each year, the superintendent or head administrator of each school district shall deliver to the department the fall school district membership report, which report shall include the number of children from birth through twenty years of age enrolled in the district on the last Friday in September of a given school year. The report shall enumerate (a) students by grade level, (b) school district levies and total assessed valuation for the current fiscal year, and (c) such other information as the Commissioner of Education directs. When any school district fails to submit its fall school district membership report by November 1, the commissioner shall, after notice to the district and an opportunity to be heard, direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the report is received by the department. In addition, the commissioner shall direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county treasurer of receipt of such report. The county treasurer shall withhold such money.

Sec. 7. Section 79-611, Revised Statutes Supplement, 2002, is amended to read:

79-611. (1) The school board shall either provide free transportation or pay an allowance for transportation in lieu of free transportation as follows:

(a) When a student attends an elementary school in his or her own district and lives more than four miles from the public schoolhouse in such district;

(b) When a student is required to attend an elementary school outside of his or her own district and lives more than four miles from such elementary school;

(c) When a student attends a secondary school in his or her own Class II or Class III school district and lives more than four miles from the public schoolhouse. This subdivision does not apply when one or more Class I school districts merge with a Class VI school district to form a new Class II or III school district on or after January 1, 1997; and

(d) 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 or her own Class V district and lives more than four miles from the public schoolhouse in such district.

(2) The transportation allowance which may be paid to the parent, custodial parent, or guardian of students qualifying for free transportation pursuant to subsection (1) of this section shall equal two hundred eighty-five percent of the mileage rate provided in section 81-1176, multiplied by each mile actually and necessarily traveled, on each day of attendance, beyond which the one-way distance from the residence of the student to the schoolhouse exceeds three miles.

(3) Whenever students from more than one family travel to school in the same vehicle, the transportation allowance prescribed in subsection (2) of this section shall be payable as follows:

(a) To the parent, custodial parent, or guardian providing transportation for students from other families, one hundred percent of the amount prescribed in subsection (2) of this section for the transportation of students of such parent's, custodial parent's, or guardian's own family and an additional five percent for students of each other family not to exceed a maximum of one hundred twenty-five percent of the amount determined pursuant to subsection (2) of this section; and

(b) To the parent, custodial parent, or guardian not providing transportation for students of other families, two hundred eighty-five percent of the mileage rate provided in section 81-1176 multiplied by each mile actually and necessarily traveled, on each day of attendance, from the residence of the student to the pick-up point at which students transfer to the vehicle of a parent, custodial parent, or guardian described in subdivision (a) of this subsection.

(4) The board may authorize school-provided transportation to any student who does not qualify under the mileage requirements of subsection (1) of this section and may charge a fee to the parent or guardian of the student

for such service. An affiliated high school district may provide free transportation or pay the allowance described in this section for high school students residing in an affiliated Class I district. No transportation payments shall be made to a family for mileage not actually traveled by such family. The number of days the student has attended school shall be reported monthly by the teacher to the board of such public school district.

(5) 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~~ of the grades offered by the Class I district and in any grade of grades seven and eight in of the non-high-school grades offered by 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.

(6) No student shall be exempt from school attendance on account of distance from the public schoolhouse.

Sec. 8. Section 79-1036, Revised Statutes Supplement, 2002, is amended to read:

79-1036. (1) In making the apportionment under section 79-1035, the Commissioner of Education shall distribute from the school fund for school purposes, to any and all school districts in which there are situated school lands which have not been sold and transferred by deed or saline lands owned by the state, which lands are being used for a public purpose, 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 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 79-1077, 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 79-1078, 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 79-1078, shall be distributed to the Class VI district and the remainder shall be distributed to the Class I district; and

(d) For Class I districts or portions thereof which are part of a Class VI district which offers instruction in grades six through twelve and in which there are situated school or saline lands, 62.0690 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 79-1078, shall be distributed to the Class VI district and the remainder shall be distributed to the Class I district.

(2) The county assessor shall certify to the Commissioner of Education the tax levy for school purposes of each school district in which school land or saline land is located and the last appraised value of such school land, which value shall be the same percentage of the appraised value as the percentage of the assessed value is of market value in subsection (2) of section 77-201 for the purpose of applying the applicable tax levy for each district in determining the distribution to the districts of such amounts. The school board of any school district in which there is located any leased or undeeded school land or saline land subject to 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 each school fiscal year.

Sec. 9. This act becomes operative on July 1, 2003.

Sec. 10. Original sections 79-102, 79-403, 79-411, 79-419, 79-479, 79-611, and 79-1036, Revised Statutes Supplement, 2002, and section 79-528, Revised Statutes Supplement, 2002, as amended by section 6, Legislative Bill 67, Ninety-eighth Legislature, First Session, 2003, are repealed.

Sec. 11. Since an emergency exists, this act takes effect when passed and approved according to law.