

Ninety-Fifth Legislature - Second Session - 1998

Introducer's Statement of Intent

LB 1175

Education Committee

CHAIRPERSON

Ardyce L. Bohlke

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

Legislative Bill 1175 is the Department of Education technical bill for 1998. The major changes are: Convictions that are set aside may be used to deny teacher and administrator certificates. Filings requirements for weather and epidemic school closings are modified. Option transportation is limited to the same basis as resident transportation. The requirement for an assistant commissioner in charge of vocational education is eliminated. Primary high school districts will be considered affected districts when a Class I dissolves or reorganizes. State ward receipts are added to the special education allowance. An allowance is made in the "lop-off" calculation for prior year adjustments that reduce aid. Motor vehicle tax receipts are added as accountable receipts. Funds budgeted for special education are restricted to special education uses. A deadline of September 1 is created for Class I districts to certify their tax request to the high school districts. Some filing dates for districts and deadlines for the department are modified and data sources are clarified. The bill also updates terminology, corrects references, deletes obsolete provisions, and outright repeals obsolete sections. Sections terminating the special education funding formula and providing for the Nebraska School for the Deaf are outright repealed.

Section 1 amends § 29-2264 by adding that setting aside a conviction does not preclude use of the conviction in determining whether a teacher or administrator's certificate should be denied.

Section 2 amends § 43-2515 by eliminating an inaccurate and unnecessary reference to Program 440.

Section 3 amends § 72-801 by eliminating a reference to § 79-11,108, which is outright repealed.

Section 4 amends § 79-213 by adding that the closing of a school due to an epidemic, severe storm conditions, or the complete destruction of the schoolhouse shall not prevent a district from being accredited. The filing of the oath by the secretary of the board regarding such conditions will be filed only with the State Board. Currently, it is also filed with the county superintendent. The requirement that the filing be made within 10

days is replaced with a requirement that the filing be made if the district is proposing to offer fewer hours than required by law. References to the obsolete term “boards of education” are eliminated.

Section 5 amends § 79-241 by restricting school districts to offering transportation to option students only on the same basis as provided for resident students. Obsolete language is eliminated.

Section 6 amends § 79-245 by replacing a reference to § 79-1018 with § 79-1018.01. Section 79-1018.01 replaces § 79-1018 beginning with state aid calculated for the 1998-99 school fiscal year. Obsolete language is eliminated.

Section 7 amends § 79-321 by eliminating a requirement for the State Board of Vocational Education to appoint an assistant commissioner of education in charge of vocational education upon the recommendation of the commissioner.

Section 8 amends § 79-413 by providing that the primary high school district shall be considered an affected district when a Class I district is involved in a petition to merge, dissolve, or change boundaries, notwithstanding any provision in the affiliation petition to the contrary. Appeal procedures pursuant to this section are also applied to all other reorganization statutes.

Section 9 amends § 79-447 by providing that the voters for the approval of a reorganization plan will include the voters in all affected districts.

Section 10 amends § 79-452 by providing that petitions to dissolve Class I or II districts shall not be further voted on after filing unless the board of each affected district also submits a statement that a majority of the board approved the proposal.

Section 11 amends § 79-741 by replacing a reference to the assistant commissioner of education in charge of vocational education with the Commissioner of Education.

Section 12 amends § 79-1003 by eliminating obsolete language and updating terminology to “school fiscal year” and “local system.”

A reference to §§ 79-1004 or 79-1005 is replaced by a reference to § 79-1005.01.

Section 79-1005.01 replaces §§ 79-1004 and 79-1005 beginning with state aid calculated for the 1998-99 school fiscal year.)

A new definition is added for “average daily attendance of a student who resides on Indian land.”

The “categorical federal funds” definition is amended by deleting the requirement that the funds be federal and by adding funds from the Education Innovation Fund, and funds from the School Technology Fund to the examples.

The “equalization aid” definition is amended to clarify that the term refers to calculated aid. A reference to § 79-1008 is replaced by a reference to § 79-1008.01. Section 79-1008.01 replaces § 79-1008 beginning with state aid calculated for the 1998-99 school fiscal year.

The “fall membership” definition is amended to reflect that the fall school district membership reports are submitted by each district, not the local system.

The “formula students” definition is amended by moving the memberships used in calculating the adjustment to fall membership up one year.

A new definition is added for “free lunch and free milk students.”

The general fund budget of expenditures is amended to clarify that special grant funds are not included for the purpose of determining Class I total allowable general fund budgets of expenditures minus the special education budgets of expenditures. The current definition has the exclusion for budget limitation purposes.

A new definition is added for “limited English proficiency students.”

The “most recently available complete data year” definition is amended by clarifying that the Nebraska income tax liability is for the calendar year in which the majority of the school fiscal year in which the majority of the school fiscal year falls.

A new definition is added for “school year or school fiscal year.”

The “special education allowance” definition is amended by adding state ward receipts and by providing that the special education allowance shall be adjusted for certification by the average annual change for the most recently available complete data year and the preceding two school fiscal years.

A new definition is added for “special grant funds.”

The “state aid” definition is amended by replacing specific statutory references with a general reference to the Tax Equity and Educational Opportunities Support Act.

Section 13 amends § 79-1005.01 by requiring the Tax Commissioner to certify income tax liabilities by November 15 for the preceding tax year, instead of the second preceding tax year.

Section 14 amends § 79-1007.02 to clarify what data sources are used to determine cost groupings. The annual financial reports and annual statistical summary continue to be for the most recently available complete data year. The WI membership reports and supplements are for the year immediately preceding the year in which aid is to be paid. The school district census is for the second year immediately preceding the year in which aid is to be paid. A new subdivision clarifies that the fall membership report for the

immediately preceding school fiscal year will be used in the recalculation of aid for 1998-99.

Section 15 amends § 79-1008.01 by adding the absolute value of any negative prior year adjustment to the maximum aid under the “lop-off” provisions. Amendments also delete a reference to a section that was repealed last session, a reference, to a section that is outright repealed by this bill, and other obsolete language. References to district are replaced with references to local systems where appropriate. Language is also added to clarify that small school qualifications apply to distributions under subsection 4, which allow Amounts that were not distributed to “lop-off” systems to be distributed first to systems with less than 900 formula students with below average costs.

Section 16 amends § 79-1008.02 by clarifying that the levy used to determine the minimum levy adjustment is the general fund common levy.

Section 17 amends § 79-1009 is amended by deleting obsolete or redundant language and by clarifying that the amount for net option funding is the lesser of the statewide average cost grouping cost per student or the option district’s local system cost grouping cost per student.

Section 18 amends § 79-1010 by replacing a reference to § 79-1018 with § 79-1018.01. Section 791018.01 replaces § 79-1018 beginning with state aid calculated for the 1998-99 school fiscal year. A references to district is replaced with references to local systems. School year references are replaced with references to school fiscal years.

Section 19 amends § 79-1015.01 by replacing references to districts with references to local systems where appropriate and by deleting obsolete language.

Section 20 amends § 79-1018.01 by clarifying that receipts for state wards include both special education and non-special education receipts. Motor vehicle tax receipts are also added as accountable receipts. Obsolete language is deleted.

Section 21 amends § 79-1020 by adding a reference to local systems as an entity to which funds may be due.

Section 22 amends § 79-1021 by deleting obsolete language.

Section 23 amends § 79-1022 by deleting obsolete language. A reference to weighted formula membership is replaced with weighted formula students.

Section 24 amends § 79-1023 by clarifying that applicable allowable growth percentages limit the budgets of Class II, III, IV, V, and VI districts, but are local system growth rates. The requirement of a 75% vote to exceed the prior year’s expenditures is also limited to Class II, III, IV, V, or VI districts by the amendments.

Section 25 amends § 79-1025 by deleting obsolete language.

Section 26 amends § 79-1026 by moving the date for certification of applicable allowable growth percentages from July 1 to December 1. The percentage is for local systems, but is certified to high school districts. The target budget level will be determined by the adjusted formula students rather than the average daily membership for the most recently available complete data year. The data year for the actual general fund operating expenditures used to compare to the target budget level and determine the applicable growth rate is clarified to be the most recently available complete data year. The term “linear transition” is replaced by “linear interpolation” in the calculation of applicable growth rates. Obsolete language is deleted.

Section 27 amends § 79-1027 by moving the date for certification of the applicable allowable reserve percentage from July 1 to December 1.

Section 28 amends § 79-1028 by clarifying that high school districts may exceed the local system applicable allowable growth rate as provided in the section. Obsolete language is deleted. The term “school year” is replaced with “school fiscal year.”

Section 29 amends § 79-1029 by clarifying that high school districts may exceed the local system applicable allowable growth rate as provided in the section. Obsolete language is deleted. The term “school year” is replaced with “school fiscal year.”

Section 30 amends § 79-1030 by clarifying that high school districts may carry over budget authority if expenditures are not increased by the full amount of the local system applicable allowable growth rate.

Section 31 amends § 79-1031 to move the deadline for the department to provide data to the Governor from December 1 to December 15. The requirement for the Governor to establish a basic allowable growth rate and growth range to clarify that they apply to local systems and limit the budgets of high school districts.

Section 32 amends § 79-1032 by replacing membership tier terminology with cost grouping terminology for the duties of the School Finance Review Committee. Equalization adjustments and minimum levy adjustments are added to the review duties. Obsolete provisions are deleted.

Section 33 amends § 79-1033 by replacing the term “school year” with “school fiscal year.”

Section 34 is a new section prohibiting the use of funds budgeted in the special education budget of expenditures for any purpose other than special education.

Section 35 amends § 79-1036 by deleting obsolete language.

Section 36 amends § 79-1065 by replacing the term “year” with “school fiscal year.”

Section 37 amends § 79-1067 by clarifying that “year” and “school year” refer to “school fiscal year.”

Section 38 amends § 79-1070 by replacing the term “year” with “school fiscal year.”

Section 39 amends § 79-1083.02 by clarifying that the determination of the primary high school district is based on the school year immediately preceding the school fiscal year in which aid is to be paid. Obsolete language is deleted.

Section 40 amends § 79-1083.03 by adding a requirement for Class VI’s to certify the total allowable general fund budget of expenditures minus the special education budget of expenditures for their Class I’s to the Department of Education on or before April 1. A deadline of December 1 is added for the department to certify the amounts to other Class I’s. The term “pupil” is replaced with “formula student” in this determination. The terms of year” and “school year” are replaced with “school fiscal year.” Obsolete language is deleted.

A new subsection requires Class I’s to certify the general fund tax request to all of their high school districts on or before September 1. The certification shall include the total personal and real property taxes, the county treasurer’s fee, the amount of delinquent taxes, and all exclusions to the levy limitations.

Another new subsection requires primary high school districts to certify the approved budget authority for Class I’s who are granted additional authority to the department and all other affected districts on or before April 1.

Section 41 amends § 79-1084 by replacing the term “board of education” with “school board” and “fiscal year” with “school fiscal year.”

Section 42 amends § 79-1089 by replacing the November 1 audit filing deadline with November 15 and by deleting the term “board of education.”

Section 43 amends § 79-1090 by deleting the term “board of education” and replacing the term “fiscal year” with “school fiscal year.”

Section 44 amends § 79-1112 by deleting a reference to § 79-1181, which is outright repealed.

Section 46 amends § 79-1132 by replacing the below age 5 special education payment provisions for 7 as nearly as possible equal monthly payments with a minimum of 7 payments.

Section 47 amends § 79-1142 by replacing the school age special education payment provisions for 7 as nearly as possible equal monthly payments with a minimum of 7 payments. A new provision allows additional payments based on valid claims.

Section 48 amends § 79-1185 by deleting a reference to § 79-1187, which is outright repealed.

Section 49 amends § 79-1202 by deleting the language establishing 19 educational service units. The amendments also change the date for distinguishing existing units from new units from July 1, 1998 to January 1, 1998. An unnecessary reference to § 79-1203 is deleted.

Section 50 amends § 79-1212 to delete references to § 79-1214, which is outright repealed.

Section 51 amends § 79-1213 to delete a reference to § 79-1214, which is outright repealed.

Section 52 amends § 79-1215 to delete references to § 79-1214, which is outright repealed.

Section 53 provides that the operative date for sections 8-10 (affected districts), 49-54 (E.S.U.'s), 56 (repealer for these sections), 58 (outright repeal of E.S.U. sections), and 61 (emergency clause) is the effective date of the act. Due to the emergency clause in section 61, the date is when the Governor signs the bill or the bill becomes law without his signature. Sections 3, 57, and 59 become operative on September 30, 1998. All three sections are Mated to the outright repeal of Nebraska School for the Deaf requirements. All other sections become operative 3 months after adjournment of the legislative session.

Section 54 contains a severability clause.

Section 55 is the main repealer section.

Section 56 is the repealer section for the amended E.S.U. sections.

Section 57 is the repealer Section for a section deleting a reference to an outright repealed section regarding Nebraska School for the Deaf requirements.

Section 58 outright repeals §§ 79-1214 and 79-1203. Section 79-1214 required the reinclusion of counties in educational service units by January 1, 1988. Section 79-1203 specifies which counties are included in each E.S.U., except that the school districts are specified for E.S.U.'s 18 and 19.

Section 59 outright repeals §§ 79-1199 through 79-11,108. These sections provide for and regulate the Nebraska School for the Deaf.

Section 60 outright repeals §§ 79-1005, 79-1007, 79-1008, 79-1011, 79-1012, 79-1014, 79-1015, 79-1017, 79-1018, and 79-1019, which are all obsolete sections in the Tax Equity and Educational Opportunities Support Act. Sections 79-1181, 79-1184, and 79-

1187 are also outright repealed. These sections provided for the Special Education Accountability Commission, the termination of the special education funding formula, and an intent to change the special education funding formula.

Section 61 contains an emergency clause.

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Principal Introducer