

## LEGISLATIVE BILL 1001

Approved by the Governor April 17, 1992

Introduced by Horgan, 4; Lynch, 13; Nelson, 35; Will, 8

AN ACT relating to schools and school districts; to amend sections 23-3305, 79-433, 79-434, 79-1047, 79-1252, 79-1285, and 79-1515, Reissue Revised Statutes of Nebraska, 1943, sections 79-4,141.01, 79-4,207, 79-1044.01, 79-1045, 79-1049, 79-1056.06, 79-2648, 79-2650, 79-3402, 79-3408, and 79-3805, Revised Statutes Supplement, 1990, sections 58-201 to 58-203, 58-207, 58-207.01, 58-219, 79-101.01, 79-402.20, 79-451, 79-4,102, 79-1032, 79-1043, 79-1369, 79-1384, 79-1501, 79-3407, 79-3409, 79-3410, 79-3811, 79-3815, and 79-3824, Revised Statutes Supplement, 1991, section 77-3439, Revised Statutes Supplement, 1991, as amended by section 192, Legislative Bill 1063, Ninety-second Legislature, Second Session, 1992, Laws 1988, LB 940, section 19, as amended by Laws 1991, LB 511, section 90, and Laws 1988, LB 940, section 18, as amended by Laws 1990, LB 259, section 34, and by Laws 1991, LB 511, section 89; to change provisions relating to reporting dates; to define and redefine terms; to provide for additional permissible uses of proceeds of bond issues under the Nebraska Investment Finance Authority Act; to change provisions relating to the taxing authority of community college boards of governors and educational service unit boards; to provide for division of assets and liabilities among reorganizing school districts; to change provisions relating to dissolution of certain school districts as prescribed; to provide for payment of expenses for governing board members as prescribed; to change provisions relating to certification of valuation and tax levies and applicability of such provisions; to change provisions relating to reports and to calculation of nonresident high school tuition; to change provisions relating to school district audits; to provide for levying a tax for removal of accessibility barriers;

to provide for and change provisions relating to cost-of-living adjustments, buy-backs, formula annuities, survivorship annuities, and cash rollover contributions under retirement systems in Class V school districts; to change provisions relating to teacher disciplinary proceedings; to provide powers for the Commissioner of Education; to provide for adjustment of allocated payments; to change provisions relating to credit for military service under the School Employees Retirement System; to change provisions relating to waiver of deadlines and transportation agreements for the enrollment option program; to change provisions relating to payments, calculations, and determination of receipts under the Tax Equity and Educational Opportunities Support Act; to provide a duty for the Revisor of Statutes; to harmonize provisions; 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 23-3305, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-3305. The county superintendent shall examine the correctness of the reports of the school district boards and may, when necessary, require them to be amended. He or she shall endorse approval on the reports found to be correct and transmit duplicate reports of the annual statistical summary on or before July 31 to the Commissioner of Education. The county superintendent shall also transmit duplicate reports of the annual financial report of each Class I school district on or before ~~October~~ November 1 to the commissioner and notify the commissioner of any amendments required to the annual financial report of each Class II, III, IV, V, and VI school district of the county on or before November 15.

Sec. 2. That section 58-201, Revised Statutes Supplement, 1991, be amended to read as follows:

58-201. Sections 58-201 to 58-272 and sections 7 and 8 of this act shall be known and may be cited as the Nebraska Investment Finance Authority Act.

Sec. 3. That section 58-202, Revised Statutes Supplement, 1991, be amended to read as follows:

58-202. (1) The Legislature hereby finds and declares that:

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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. 41. That section 79-3805, Revised Statutes Supplement, 1990, be amended to read as follows:

79-3805. (1) Using data from the annual financial reports and the annual statistical summary reports for the most recently available complete data year, the department shall calculate the tiered cost per student for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve for each district as described in subsections (2) through (8) of this section.

(2) Each district's general fund operating expenditures for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve shall be computed as follows: (a) The weighted average daily membership for kindergarten shall equal the average daily membership for kindergarten multiplied by five-tenths; (b) the weighted average daily membership for grades one through six, including full-day kindergarten, shall equal the average daily membership for such grades multiplied by one; (c) the weighted average daily membership for grades seven and eight shall equal the average daily membership for such grades multiplied by one and two-tenths; (d) the weighted average daily membership for grades nine through twelve shall equal the average daily membership for such grades multiplied by one and four-tenths; and (e) the total weighted average daily membership shall equal the sum of grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve weighted average daily membership values. Each district's general fund operating expenditures for each grade group shall be calculated by dividing that grade group's weighted average daily membership by the total weighted average daily membership in the district and multiplying the result by the district's total general fund operating expenditures.

(3) Each district with general fund operating

expenditures in grades one through six, including full-day kindergarten, shall be placed into a tier based on the following schedule.

| Tier | Tier midpoint                           | Average daily membership range |
|------|---|--------------------------------|
| 1    | 50.50                                   | .01 - 101.00                   |
| 2    | 143.00                                  | 101.01 - 185;00                |
| 3    | 280.00                                  | 185.01 - 375.00                |
| 4    | 687.50                                  | 375.01 - 1,000.00              |
| 5    | 1,450.00                                | 1,000.01 - 1,900.00            |
| 6    | 8,450.00                                | 1,900.01 - 15,000.00           |
| 7    | Median average daily membership of tier | 15,000.01 and over             |

The average general fund operating expenditures per student for grades one through six, including full-day kindergarten, shall be calculated for each tier by adding the total general fund operating expenditures for such grades for all districts in the tier and dividing by the total average daily membership for such grades for all districts in the tier.

(4) Each district with general fund operating expenditures in grades nine through twelve shall be placed in a tier based on the following schedule.

| Tier | Tier midpoint                           | Average daily membership range |
|------|---|--------------------------------|
| 1    | 25.00                                   | .01 - 50.00                    |
| 2    | 62.50                                   | 50.01 - 75.00                  |
| 3    | 87.50                                   | 75.01 - 100.00                 |
| 4    | 125.00                                  | 100.01 - 150.00                |
| 5    | 200.00                                  | 150.01 - 250.00                |
| 6    | 375.00                                  | 250.01 - 500.00                |
| 7    | 750.00                                  | 500.01 - 1,000.00              |
| 8    | 5,500.00                                | 1,000.01 - 10,000.00           |
| 9    | Median average daily membership of tier | 10,000.01 and over             |

The average general fund operating expenditures per student for grades nine through twelve shall be calculated for each tier by adding the total general fund operating expenditures for such grades for all districts in the tier and dividing such sum by the total average daily membership for such grades for all districts in the tier.

(5) Tiered cost per student values shall be computed for grades one through six, including full-day kindergarten, for each district as follows:

(a) For districts with average daily memberships for grades one through six, including full-day kindergarten, which are less than the midpoint of tier 1 for such grades, the tiered cost per student

shall equal the average general fund operating expenditures per student for tier 1;

(b) For districts with average daily memberships for grades one through six, including full-day kindergarten, which are greater than the midpoint of tier 7 for such grades, the tiered cost per student for such grades shall equal the average general fund operating expenditures per student for tier 7; and

(c) For districts with average daily memberships for grades one through six, including full-day kindergarten, which fall on or between the midpoints of any two tiers, the tiered cost per student for such grades shall be calculated by means of a linear transition between the average general fund operating expenditures per student of the two tiers between whose midpoints the districts' average daily memberships for such grades fall.

(6) Tiered cost per student values shall be computed for grades nine through twelve for each district as follows:

(a) For districts with average daily memberships for grades nine through twelve which are less than the midpoint of tier 1 for such grades, the tiered cost per student shall equal the average general fund operating expenditures per student for tier 1;

(b) For districts with average daily memberships for grades nine through twelve which are greater than the midpoint of tier 9 for such grades, the tiered cost per student for such grades shall equal the average general fund operating expenditures per student for tier 9; and

(c) For districts with average daily memberships for grades nine through twelve which fall on or between the midpoints of any two tiers, the tiered cost per student for such grades shall be calculated by means of a linear transition between the average general fund operating expenditures per student of the two tiers between whose midpoints the districts' average daily memberships for such grades fall.

(7) The tiered cost per student for kindergarten shall be calculated by multiplying each district's tiered cost per student for grades one through six, including full-day kindergarten, by five-tenths.

(8) The tiered cost per student for grades Seven and eight shall be calculated as follows: For Class II, Class III, Class IV, and Class V districts, the tiered cost per student shall be the calculated mean of the district's tiered cost per student for grades one

through six, including full-day kindergarten, and for grades nine through twelve; for Class I districts, the tiered cost per student shall be the district's tiered cost per student for grades one through six, including full-day kindergarten, multiplied by one and two-tenths; and for Class VI districts providing instruction in grades seven and eight as authorized by section 79-1109, the tiered cost per student shall be the district's tiered cost per student for grades nine through twelve multiplied by one and two-tenths and the result divided by one and four-tenths.

(9) The tiered cost per student for nonresident high school tuition funds shall be the average general fund operating expenditures per student for grades nine through twelve for all districts included in subsection (4) of this section.

~~(10) In districts where more than seventy five percent of the students enrolled reside on Indian land, as defined under regulations of the United States Department of Education in effect on July 10, 1990, promulgated pursuant to Public Law 81-8747 the tiered cost per student for each grade level, an calculated pursuant to subsections (5) through (8) of this section, shall be increased by a factor of~~ In districts which receive payments pursuant to Public Law 81-874 and in which there are students enrolled who reside on Indian land, as defined under regulations of the United States Department of Education in effect on July 10, 1990, promulgated pursuant to Public Law 81-874, the tiered cost per student, for each grade level, calculated pursuant to subsections (5) through (8) of this section, shall be increased by a factor equal to the result of multiplying the ratio of average daily attendance of students who reside on Indian land to the total average daily attendance of the district, as reported by the United States Department of Education in calculating the district's payment pursuant to Public Law 81-874, times twenty-five percent.

Sec. 42. That section 79-3811, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3811. District formula resources shall include other actual receipts as determined by the department for the most recently available complete data year, except that receipts from the Community Improvements Cash Fund and any receipts acquired pursuant to the Low-Level Radioactive Waste Disposal Act shall not be included. Other actual receipts shall include:

- (1) Public power district sales tax revenue;
- (2) Fines and license fees;
- (3) Nonresident high school tuition receipts, except that for the calculation of state aid to be paid in school years ~~1991-92~~, 1992-93, 1993-94, and 1994-95, other actual receipts shall include the district's total nonresident high school tuition charge for each such school year as certified by the department pursuant to section 79-4,102;
- (4) Tuition receipts from individuals, other districts, or any other source except those derived from adult education;
- (5) Transportation receipts;
- (6) Interest on investments;
- (7) Other miscellaneous local receipts, not including receipts from private foundations, individuals, associations, or charitable organizations;
- (8) Special education receipts;
- (9) Receipts from the state for wards of the court and wards of the state;
- (10) All receipts from the Temporary School Fund;
- (11) Receipts from the Insurance Tax Fund;
- (12) Pro rata, motor vehicle license fee receipts;
- (13) Help Education Lead to Prosperity Act funds;
- (14) Amounts provided by the state on behalf of the district as reimbursement for repayment of personal property taxes by centrally assessed pipeline companies pursuant to section 77-3617;
- (15) Other miscellaneous state receipts excluding revenue from the textbook loan program authorized by section 79-4,118;
- (16) Impact aid entitlements for the school fiscal year which have actually been received by the district to the extent allowed by federal law;
- (17) All other noncategorical federal receipts; ~~and~~
- (18) All receipts pursuant to Chapter 79, article 34; ~~and~~
- (19) Receipts under the Medicare Catastrophic Coverage Act of 1988 as authorized Pursuant to sections 43-2510 and 43-2511 but only to the extent of the amount the district would have otherwise received pursuant to the Special Education Act.

Sec. 43. That section 79-3815, Revised Statutes Supplement, 1991, be amended to read as follows:



79-3815. (1) ~~Beginning with the budget adopted for school year 1990-91, the~~ The department may require each district to submit to it a duplicate copy of such portions of the district's budget statement as the Commissioner of Education directs. The department may verify any data used to meet the requirements of the Tax Equity and Educational Opportunities Support Act. The Auditor of Public Accounts shall make necessary changes in the budget documents for districts to effectuate the budget limitations imposed pursuant to sections 79-3814 to 79-3821.

(2) If any school district fails to submit to the department or the auditor the budget documents required pursuant to subsection (1) of this section by the date established in section 13-508 or fails to make any corrections of errors in the documents pursuant to section 13-504, the commissioner, upon notification from the auditor or upon his or her own knowledge that the required budget documents and any required corrections of errors from any school district have not been properly filed in accordance with the Nebraska Budget Act and after notice to the district and an opportunity to be heard, shall direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act ~~and all other funds distributed by the department~~ be withheld until such time as the required budget documents or corrections of errors are received by the department. In addition, the commissioner shall notify the county superintendent to direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county superintendent of receipt of the required budget documents or corrections of errors. The county treasurer shall withhold such money.

Sec. 44. That section 79-3824, Revised Statutes Supplement, 1991, be amended to read as follows;

79-3824. (1) State aid payable pursuant to the Tax Equity and Educational Opportunities Support Act for each school year shall be based upon data found in applicable reports for the most recently available complete data year. The annual financial reports of all school districts shall be submitted to the Commissioner of Education pursuant to the date prescribed in subdivision (3) of section 79-451. If any ~~Class I district's annual financial report has not been received by the commissioner by the first day of October and if any Class II, III, IV, V, or VI~~ school district fails to timely submit its report, ~~to the commissioner by the~~

~~first day of November,~~ the commissioner, after notice to the district and an opportunity to be heard, shall direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act ~~and all other funds distributed by the department~~ be withheld until such time as the report is received by the department. In addition, the commissioner shall notify the county superintendent to direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county superintendent of receipt of such report. The county treasurer shall withhold such money.

(2) A district which receives federal funds in excess of twenty-five percent of its general fund budget of expenditures may apply for early payment of state aid paid pursuant to the Tax Equity and Educational Opportunities Support Act when such federal funds are not received in a timely manner. Such application may be made at any time by a district suffering such financial hardship and may be for any amount up to fifty percent of the remaining amount to which the district is entitled during the current fiscal year. The state board may grant the entire amount applied for or any portion of such amount if, after a hearing, the state board finds that a financial hardship exists in the district. The state board shall notify the Director of Administrative Services of the amount of funds to be paid in lump sum and the reduced amount of the monthly payments. The Director of Administrative Services shall, at the time of the next state aid payment made pursuant to section 79-3813, draw a warrant for the lump-sum amount from appropriated funds and forward such warrant to the district. For purposes of this subsection, financial hardship shall mean a situation in which income to a district is exceeded by liabilities to such a degree that if early payment is not received it will be necessary for the district to discontinue vital services or functions.

Sec. 45. That Laws 1988, LB 940, section 18, as amended by Laws 1990, LB 259, section 34, and Laws 1991, LB 511, section 89, be amended to read as follows:

Sec. 18. Section 19 of this act as amended by section 90, Legislative Bill 511, Ninety-second Legislature, First Session, 1991, and by section 46 of this legislative bill, shall become operative on July 1, 1993. The other sections of this act shall become operative on their effective date.

Sec. 46. That Laws 1988, LB 940, section 19, as amended by Laws 1991, LB 511, section 90, be amended

to read as follows:

Sec. 19. That sections 79-437, 79-495, 79-496, 79-499, 79-4,101, and 79-4,105, Reissue Revised Statutes of Nebraska, 1943, sections 79-436, 79-497, and 79-498, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 25, 38, and 39, respectively, Legislative Bill 511, Ninety-second Legislature, First Session, 1991, ~~and sections 79-4,102 to 79-4,103 and 79-4,104, Revised Statutes Supplement, 1990, as amended by sections 40 to 41 and 42, respectively, Legislative Bill 511, Ninety-second Legislature, First Session, 1991, and section 79-4,102, Revised Statutes Supplement, 1990, as amended by section 40, Legislative Bill 511, Ninety-second Legislature, First Session, 1991, and by section 17 of this legislative bill,~~ are repealed.

Sec. 47. The Revisor of Statutes shall assign section 27 of this act within sections 79-1032 to 79-1060, and any reference to sections 79-1032 to 79-1060 shall be construed to include section 27 of this act.

Sec. 48. That original sections 23-3305, 79-433, 79-434, 79-1047, 79-1252, 79-1285, and 79-1515, Reissue Revised Statutes of Nebraska, 1943, sections 79-4,141.01, 79-4,207, 79-1044.01, 79-1045, 79-1049, 79-1056.06, 79-2648, 79-2650, 79-3402, 79-3408, and 79-3805, Revised Statutes Supplement, 1990, sections 58-201 to 58-203, 58-207, 58-207.01, 58-219, 79-101.01, 79-402.20, 79-451, 79-4,102, 79-1032, 79-1043, 79-1369, 79-1384, 79-1501, 79-3407, 79-3409, 79-3410, 79-3811, 79-3815, and 79-3824, Revised Statutes Supplement, 1991, section 77-3439, Revised Statutes Supplement, 1991, as amended by section 192, Legislative Bill 1063, Ninety-second Legislature, Second Session, 1992, Laws 1988, LB 940, section 19, as amended by Laws 1991, LB 511, section 90, and Laws 1988, LB 940, section 18, as amended by Laws 1990, LB 259, section 34, and by Laws 1991, LB 511, section 89, are repealed.

Sec. 49. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.