

LEGISLATIVE BILL 840

Approved by the Governor June 13, 1995

Introduced by Bohlke, 33, Wickersham, 49, Withem, 14, at the request of the Governor

AN ACT relating to schools; to amend sections 79-3509.02, 79-3801, 79-3803, 79-3804, 79-3806, 79-3812, and 79-3813, Reissue Revised Statutes of Nebraska, and section 43-2513, Revised Statutes Supplement, 1994; to change provisions relating to state aid for reorganized districts; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 43-2513, Revised Statutes Supplement, 1994, is amended to read:

43-2513. For purposes of the general fund budget of expenditures as defined in subdivision (16) of section 79-3803, funds received to carry out the services coordination functions and the administration of the billing system shall be considered special grant funds.

Sec. 2. Section 79-3509.02, Reissue Revised Statutes of Nebraska, is amended to read:

79-3509.02. For purposes of the general fund budget of expenditures as defined in subdivision (16) of section 79-3803, funds received to carry out the Help Education Lead to Prosperity Act shall be considered special grant funds.

Sec. 3. Section 79-3801, Reissue Revised Statutes of Nebraska, is amended to read:

79-3801. Sections 79-3801 to 79-3824 and sections 7 and 10 of this act shall be known and may be cited as the Tax Equity and Educational Opportunities Support Act.

Sec. 4. Section 79-3803, Reissue Revised Statutes of Nebraska, is amended to read:

79-3803. For purposes of the Tax Equity and Educational Opportunities Support Act:

(1) Adjusted valuation shall mean the assessed valuation of taxable property of each district in the state adjusted pursuant to the adjustment factors described in section 79-3809. For the calculation of state aid to be paid in school year 1994-95 and each school year thereafter, adjusted valuation shall mean the adjusted valuation for the property tax year ending during the school year in which the aid based upon that value is to be paid. For purposes of determining the local effort rate yield pursuant to section 79-3808, adjusted valuation shall not include the value of any property which a court, by a final judgment from which no appeal is taken, has declared to be nontaxable or exempt from taxation;

(2) Allocated income tax funds shall mean the amount of assistance paid to a district pursuant to section 79-3804;

(3) Average daily membership shall mean the average daily membership for grades kindergarten through twelve as provided in each district's annual financial report and annual statistical summary and, for the calculation of state aid to be paid in school year 1993-94 and each school year thereafter, shall include the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;

(4) Average daily membership tiers shall mean groupings of districts by the number of students comprising a district's average daily membership in a specified grade range;

(5) Base fiscal year shall mean the first fiscal year in which all data sources reflect the reorganized district as a single district for the calculation of state aid;

(6) ~~(5)~~ Board shall mean the school board or board of education of each school district;

(7) ~~(6)~~ Categorical federal funds shall mean federal funds limited to a specific purpose by federal law, including, but not limited to, Chapter 1 funds, Chapter 2 funds, Title VI funds, federal vocational education funds, federal school lunch funds, Indian education funds, and Head Start funds;

(8) Consolidate shall mean to voluntarily reduce the number of school districts providing education to a grade group;

(9) ~~(7)~~ Current school year shall mean the current school fiscal year;

(10) ~~(8)~~ Department shall mean the State Department of Education;

(11) ~~(9)~~ District shall mean any Class I, II, III, IV, V, or VI district and, for purposes of sections 79-3801 to 79-3813, the nonresident high school tuition fund of each county;

(12) ~~(10)~~ Ensuing school year shall mean the school year following the current school year;

(13) ~~(11)~~ Equalization aid shall mean the amount of assistance paid to a district pursuant to sections 79-3806 to 79-3813 and section 7 of this act;

(14) ~~(12)~~ Fall membership shall mean the total membership in grades kindergarten through twelve as reported on the fall school district membership report pursuant to section 79-451;

(15) ~~(13)~~ Fiscal year shall mean the state fiscal year which is the period from July 1 to the following June 30;

(16) ~~(14)~~ Formula students shall mean (a) for purposes of state aid paid in school year 1993-94, the sum of average daily membership and tuitioned resident students from the most recently available complete data year and (b) for purposes of calculation of state aid for school year 1994-95 and each school year thereafter (1) for state aid certified pursuant to section 79-3813, the sum of fall membership and tuitioned resident students from the school year immediately preceding the school year in which the aid is to be paid and (11) for final calculation of state aid pursuant to section 79-1369, the sum of average daily membership and tuitioned resident students from the school year immediately preceding the school year in which the aid was paid;

(17) ~~(15)~~ Full-day kindergarten shall mean kindergarten offered by a district for at least one thousand thirty-two instructional hours;

(18) ~~(16)~~ General fund budget of expenditures shall mean the total budgeted expenditures for general fund purposes as certified in the budget statement adopted pursuant to the Nebraska Budget Act, except that for purposes of the limitation imposed in section 79-3814, the general fund budget of expenditures shall not include any special grant funds, exclusive of local matching funds, received by a district subject to the approval of the department;

(19) ~~(17)~~ General fund expenditures shall mean all expenditures from the general fund;

(20) ~~(18)~~ General fund operating expenditures shall mean the total general fund expenditures minus categorical federal funds, tuition paid, transportation fees paid to other districts, adult education, summer school, school lunch pass-through, community services, redemption of the principal portion of general fund debt service, and transfers from other funds into the general fund;

(21) ~~(19)~~ Income tax liability shall mean the amount of the reported income tax liability for resident individuals pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(22) ~~(20)~~ Income tax receipts shall mean the amount of income tax collected pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(23) ~~(21)~~ Most recently available complete data year shall mean the most recent single school fiscal year for which the annual financial report, fall school district membership report, annual statistical summary, Nebraska income tax liability by school district, and adjusted valuation data are available;

(24) Reorganized district shall mean any district involved in a consolidation and currently educating students following consolidation;

(25) ~~(22)~~ State aid shall mean the amount of assistance paid to a district pursuant to sections 79-3804 and 79-3806 to 79-3813 and section 7 of this act;

(26) ~~(23)~~ State board shall mean the State Board of Education;

(27) ~~(24)~~ State support shall mean all funds provided to districts by the State of Nebraska for the general fund support of elementary and secondary education; and

(28) ~~(25)~~ Tuitioned resident students shall mean resident students in grades kindergarten through twelve of the district whose tuition is paid by the district to some other district or education agency.

Sec. 5. Section 79-3804, Reissue Revised Statutes of Nebraska, is amended to read:

79-3804. (1) Beginning in fiscal year 1990-91, twenty percent of the projected state income tax receipts shall be dedicated to the use and support of the public school system to provide support for the distribution of state aid to districts as determined in subsections (2) through (4) of this section and sections 79-3806 to 79-3813 and section 7 of this act.

(2) Not later than November 15 of each year, the Tax Commissioner shall certify to the department for the second preceding tax year (a) twenty

percent of the income tax liability of resident individuals for each Class I, II, III, IV, or V district in the state in which ten or more resident individual income tax returns were filed and (b) twenty percent of the income tax liability of resident individuals of all Class I, II, III, IV, and V districts in which less than ten resident individual income tax returns were filed, together with a list of such districts and funds.

(3) Using the data certified by the Tax Commissioner pursuant to subsection (2) of this section, the department shall calculate each district's allocated income tax funds as follows: (a) Each district identified in subdivision (2)(b) of this section shall be preliminarily allocated a share of the sum total income tax liability certified pursuant to such subdivision based on its pro rata share of the total adjusted valuation of all such districts; and (b) each district identified in subdivision (2)(a) of this section shall receive the following allocations of certified income tax liability:

(i) For each Class II, III, IV, or V district, the allocated income tax funds shall be the certified income tax liability;

(ii) For each Class I district which is not part of a Class VI district, 61.3793 percent of the certified income tax liability shall be allocated to such Class I district, with the remainder allocated to the nonresident high school tuition fund to which any portion of the Class I district belongs and to any high school district or districts with which any portion of the Class I district has affiliated. When the Class I district is a joint district or has partially affiliated with one or more high school districts, such remainder shall be allocated to the nonresident high school tuition fund of each county in which the Class I district has property and to the affiliated high school district or districts based on each county's and each affiliated high school district's pro rata share of the Class I district's total adjusted valuation;

(iii) For each Class I district which is part of a Class VI district which offers instruction in grades seven through twelve, 44.8276 percent of the certified income tax liability shall be allocated to such Class I district and the remainder shall be allocated to the Class VI district; and

(iv) For each Class I district which is part of a Class VI district which offers instruction in grades nine through twelve, 61.3793 percent of the certified income tax liability shall be allocated to such Class I district and the remainder shall be allocated to the Class VI district.

(4) The remainder of the amount dedicated pursuant to subsection (1) of this section, which includes income tax receipts from all other entities and individual income tax liability which cannot be reasonably identified as payments from residents of specific districts, shall be determined by the Tax Commissioner for the second preceding calendar year. The Legislature shall annually appropriate an amount equal to the total income tax liability allocable to districts based on the certification of the Tax Commissioner provided pursuant to subsection (2) of this section. Based on income tax projections provided by the Nebraska Economic Forecasting Advisory Board, the Legislative Fiscal Analyst, and the Department of Revenue, the Legislature shall annually appropriate an amount approximating the remainder of such dedicated income tax receipts for the ensuing school year. The State Treasurer shall transfer such appropriated amounts to the School District Income Tax Fund for distribution pursuant to this section and to the Tax Equity and Educational Opportunities Fund for distribution to districts pursuant to the distribution prescribed in sections 79-3806 to 79-3813 and section 7 of this act.

Sec. 6. Section 79-3806, Reissue Revised Statutes of Nebraska, is amended to read:

79-3806. (1) Except as provided in section 7 of this act for reorganized districts which become reorganized districts on or before June 30, 2005, and except as provided in subsections (2) through (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 subsections (5) and (6) of this section and sections 79-3805 and 79-3807, exceeds its total formula resources as determined pursuant to 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) 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 current 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 school district's tiered cost per student, whichever is less.

(8) 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. When two or more districts consolidate into one or more reorganized districts:

(1) In the base fiscal year, the reorganized district shall receive as state aid one hundred percent of the state aid or portion thereof calculated for the individual districts involved in the reorganization in the fiscal year prior to the base fiscal year, or the total amount the reorganized district would receive under section 79-3806, whichever is greater;

(2) In the first fiscal year after the base fiscal year, the reorganized district shall receive as state aid sixty-six percent of the state aid or portion thereof calculated for the individual districts in the fiscal year prior to the base fiscal year, or the total amount the reorganized district would receive under section 79-3806, whichever is greater;

(3) In the second fiscal year after the base fiscal year, the reorganized district shall receive as state aid thirty-three percent of the state aid or portion thereof calculated for the individual districts in the fiscal year prior to the base fiscal year, or the total amount the reorganized district would receive under section 79-3806, whichever is greater; and

(4) In the third fiscal year after the base fiscal year and in each fiscal year thereafter, the reorganized district shall receive the amount of state aid to which it is entitled under section 79-3806.

If the total amount of payments under this section to school districts for a school year exceeds the total amount appropriated under subsection (2) of section 79-3806 for fiscal year 1994-95, the incentive payment shall be reduced proportionately so that the total amount of aid under this section does not exceed the amount appropriated under subsection (2) of section 79-3806 for fiscal year 1994-95.

The provisions of this section shall not affect any calculations for equalization aid distributed prior to fiscal year 1995-96.

Sec. 8. Section 79-3812, Reissue Revised Statutes of Nebraska, is amended to read:

79-3812. There are hereby created the School District Income Tax Fund and the Tax Equity and Educational Opportunities Fund, each of which shall consist of such sums as the Legislature may appropriate and be administered by the state board. The School District Income Tax Fund shall receive resident individual income tax appropriations made by the Legislature to make payments to districts of allocable income tax funds. The Tax Equity and Educational Opportunities Fund shall receive dedicated income tax appropriations and appropriations made by the Legislature to fund sections 79-3806 to 79-3811 and section 7 of this act. Any money in such funds available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 9. Section 79-3813, Reissue Revised Statutes of Nebraska, is amended to read:

79-3813. On or before July 15 for 1994 and on or before July 1 of each year thereafter, the department shall determine the amounts to be distributed to each district pursuant to sections 79-3804 and 79-3806 to 79-3811 and section 7 of this act and shall certify the amounts to the Director of Administrative Services, the Auditor of Public Accounts, and each district. Such amounts shall be distributed in ten as nearly as possible equal payments on the last business day of each month beginning in September of each year and ending in June of the following year pursuant to warrants drawn against the School District Income Tax Fund and the Tax Equity and Educational Opportunities Fund. Such certified state aid amounts shall be shown as budgeted non-property-tax receipts and deducted prior to calculating the property tax request in the district's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section 79-3815.

Sec. 10. Section 7 of this act shall not apply to any reorganized district which becomes a reorganized district after June 30, 2005.

Sec. 11. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 12. Original sections 79-3509.02, 79-3801, 79-3803, 79-3804, 79-3806, 79-3812, and 79-3813, Reissue Revised Statutes of Nebraska, and section 43-2513, Revised Statutes Supplement, 1994, are repealed.

Sec. 13. Since an emergency exists, this act takes effect when passed and approved according to law.