



**Ninety-Seventh Legislature - First Session - 2001**  
**Committee Statement**  
**LB 797**

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**Hearing Date:** 3/13/01  
**Committee On:** Education

**Introducers:** (Education Committee)  
**Title:** Change provisions relating to schools

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**Roll Call Vote – Final Committee Action:**

- Advanced to General File
  - X Advanced to General File with Amendments
  - Indefinitely Postponed
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**Vote Results:**

7	Yes	Senators Brashear, Coordsen, Maxwell, Price, Raikes, Stuhr, Suttle
0	No	
0	Present, not voting	
1	Absent	Senator Wickersham

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**Proponents:**  
 Thomasin Barry  
 Brian Halstead  
 D’Anne Welch

**Representing:**  
 Introducing for the Committee  
 Department of Education  
 Citizen

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

Legislative Bill 797 is the Department of Education technical bill for 2001.

Section 1 amends § 9-812.

Clarification would be provided that money received from the operation of the lottery is credited to, instead of deposited in, the State Lottery Operation Trust Fund.

Currently, the statute prohibits the Department of Education from approving lottery funds for telecommunications equipment, services, and forms of technical innovation until after review by the N.I.T.C. However, the department does not approve the grants, the Excellence in Education

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Council recommends proposals to the Governor. Therefore, that provision is modified to require review by the N.I.T.C. prior to approval, without reference to the Department of Education. In another location in the statute, additional language requiring the Excellence in Education Council to provide recommendations to the N.I.T.C. for review and recommendations to the Governor is deleted.

Obsolete language is removed from the section along with grammatical changes.

Section 2 amends § 13-511.

The section requires a public hearing to revise a previously adopted budget statement. In the notice requirements for the hearing, a requirement is added to include a copy of the summary of the proposed revised budget. A copy of the summary of the originally adopted budget is currently required. This change affects other political subdivisions in addition to school districts and educational service units.

Section 3 amends § 77-1601.02.

A requirement for school systems with multiple school districts to hold a hearing to approve or modify the systemwide tax requests on or before October 5 is eliminated. Districts in the system would still be required to hold a special hearing to have a tax request different than the prior year. A requirement is also added to file a copy of the hearing notice and proof of publication with the State Auditor.

The deadline for certifying tax requests is clarified by replacing “prior to October 14” with “on or before October 13.”

Section 4 amends § 79-214.

Authorization allowing a school board to require a birth certificate prior to entrance into the beginner grade is replaced with a requirement to comply with § 43-2007(2). To enroll in a public or private school, § 43-2007(2) requires either a birth certificate or other proof of the student’s identity and age accompanied by an affidavit explaining the inability to produce a copy of the birth certificate.

Obsolete terminology is also eliminated.

Section 5 amends § 79-313.

This section restricts eligibility for membership on the State Board of Education to those who are not holders of any state office, a member of a state board or commission, or a candidate for any state office, board, or commission. This measure would allow those who were members of or candidates for a board or commission whose duties did not involve the exercise of executive power to be eligible for membership on the State Board of Education.

Section 6 amends § 79-413.

Transfers between school districts of 640 acres or less may be accomplished with the approval of 65% of each school board. With this measure, if the transfer of the parcel is between a Class I one or more Class II, III, IV, or V districts, the district with which the parcel is affiliated shall be deemed an affected district. The term “district affected” is replaced with “affected district” elsewhere in the statute as a harmonizing modification. This change has already been accomplished this session by Senator Tyson’s LB 302, which was signed by the Governor on February 13, 2001.

Section 7 amends § 79-442.

The notice requirements for public hearings on reorganization plans are modified to require the notice to be published in a legal newspaper of general circulation in the county or counties in which the affected districts are located. The current notice requirement does not recognize that multiple counties may be involved.

Section 8 amends § 79-458.

This section authorizes transfers of land to a contiguous district in certain situations when an levy override has been approved. This type of transfer is otherwise known as “freeholding.” One of the conditions that must be met before land may be transferred is that the district has had less than 60 pupils in grades 9 through 12 for the 2 consecutive school years immediately preceding the filing of the petition. This measure further defines that requirement as an average daily membership in grades 9-12 of less than 60 for the 2 consecutive school years immediately preceding the filing of the petition.

Clarification is added that the board that holds the hearing is the board that receives and acts on the petition, which consists of the county assessors, county clerks, and county treasurers of the counties involved.

Section 9 amends § 79-4,101.

A reference to § 79-1076 is eliminated due to the outright repeal of that section in this measure.

Section 10 amends § 79-4,108.

This section is amended to allow the state reorganization committee 40 days, as opposed to the current 30 days, to approve or disapprove an application for unification.

Section 11 amends § 79-528.

This section is amended by making the deadline for submission of the annual financial report (A.F.R.) November 1 for all classes of school districts. Currently, Class I district must submit their A.F.R. on or before October 15. The rate of tax levied for all school purposes is also removed from the A.F.R. requirements.

Section 12 amends § 79-563 to allow Class VI school boards to hold their meetings on or before the 3<sup>rd</sup> Monday of each month as opposed to the current requirement of on or before the 2<sup>nd</sup>

Monday. The term board of education is replaced with school board to harmonize with the rest of Chapter 79.

Section 13 amends § 79-573.

The modification allows the warrants of Class V school districts to be drawn on the treasurer of the school district. Currently, the warrant are drawn on the city treasurer. The term board of education is replaced with school board to harmonize with the rest of Chapter 79.

Section 14 amends § 79-583.

The modification recognizes that warrants for Class V school districts would be drawn on the treasurer of the school district, not the county treasurer. The existing statutes are not consistent in their references to the treasurer involved in Class V warrants. Section 79-573 refers to the city treasurer, while this section refers to the county treasurer.

Section 15 amends § 79-817.

A requirement for the Department of Education to recommend a contract form for the employment of teachers and administrators is eliminated.

Section 16 amends § 79-1003.

The general fund budget of expenditures definition is amended to mean the budget of disbursements and transfers for general fund purposes. The current definition is the total budgeted expenditures for general fund purposes. Expenditures for repayment of money from the Hardship Fund pursuant to § 79-1072.03(6) are also excluded from the definition.

Expenditures for retirement incentive plans and staff development assistance are excluded from the definition of general fund operating expenditures.

The definition of high school district is moved to the proper location so that the definitions are in alphabetical order.

The special grant fund definition is amended by requiring the State Board of Education to approve a listing of grants that qualify, rather than approving each individual grant to a school district.

The transportation allowance definition is amended by removing obsolete language.

Section 17 amends § 79-1007.01.

The federal citation for the definition for students with limited English proficiency is revised. Obsolete language is removed.

Section 18 amends § 79-1008.01.

The maximum levy for purposes of calculating the “stabilization” factor” is clarified as being the maximum levy for the school fiscal year for which aid is being certified. The “stabilization factor” prevents total state aid from decreasing by more than:

$$(15\% * \text{previous year's state aid}) + (\text{maximum levy} * \text{increase in adjusted valuation})$$

Section 19 amends §79-1008.02.

The general fund common levy for purposes of calculating the minimum levy adjustment is clarified as being the general fund common levy in the calendar year in which aid is certified. Currently, the levy is from the calendar year when aid is certified.

Section 20 amends § 79-1009.

This section is amended by basing net option funding on the statewide average cost grouping cost per student, instead of the lesser of the statewide average cost grouping cost per student or the local system cost grouping cost per student. This change will result in higher net option funding for systems in the standard cost grouping, which will reduce the allocated income taxes for all local systems.

Section 21 amends § 79-1010.

This section is amended by clarifying that incentive repayment is required if a district withdraws from a unified system prior to the beginning of the 8<sup>th</sup> school year. The current language refers to the 8<sup>th</sup> year, but does not specify what type of year.

Section 22 amends § 79-1015.01.

Is amended to clarify that the maximum levy used to determine the local effort rate is the maximum levy for the school fiscal year for which aid is being certified.

Section 23 amends § 79-1018.01.

Beginning with the calculation of aid for 2002-03, receipts from the temporary school fund shall only include receipts pursuant to § 79-1035 and the receipt of funds pursuant to § 79-1036 for property leased for a public purpose as set forth in § 77-202(1)(a). This change will exclude in-lieu-of-taxes the system received two years earlier from the resources when the property those in-lieu-of-taxes were based on is included in the adjusted valuation of the system.

Section 24 amends § 79-1024.

Section 13-511 is recognized as an additional section to § 13-504 for requiring the correction of errors in budget documents.

Section 25 amends § 79-1026.

This section is amended by replacing the target budget level with formula need for determining the applicable allowable growth rate. Currently, the target budget level calculation and the formula need calculation are the same.

Section 26 amends § 79-1027.

Obsolete language is removed.

Section 27 amends § 79-1028.

The modifications authorize the Department of Education, rather than the State Board of Education, to approve, deny, or modify projected increases in formula students.

Districts that receive additional budget authority due to projected increases in formula students will be given the necessary document to recalculate the actual formula students and will file the document pursuant to § 79-1024(1), which authorizes the department to verify data used for the Tax Equity and Educational Opportunities Support Act and which authorized the Auditor to then make necessary changes in the budget documents to effectuate the budget limitations.

Obsolete language is eliminated.

Section 28 amends § 79-1032.

The representative of the Property Tax Administrator on the School Finance Review Committee is replaced with a representative of the Department of Property Assessment and Taxation. The representative of the Department of Education would be appointed by the Commissioner of Education, rather than the State Board of Education.

The monitoring provisions for the Committee are expanded from the school finance provisions of the Tax equity and Educational Opportunities Support Act to include the entire Act.

The deadline for the annual report of the Committee is moved from March 1 to July 1 and a requirement to meet at least annually is added.

An outdated requirement is deleted.

Section 29 amends § 79-1035.

This section is amended to limit in-lieu-of-taxes for school lands to lands that are used for a public purpose. School lands are subject to property taxes, unless used for a public purpose, beginning January 1, 2001.

Authorization is also added to make any corrections for the prior school fiscal year's apportionment of temporary school funds in the calculation of apportionment for the current year. Temporary school funds are the funds generated by school lands, investments, fines, and licenses that are to be distributed to the school districts based on the number of children in each district ages 5 through 18.

The requirement to certify the apportionment is limited to the Director of Administrative Services. Currently, the certification also has to be made to the county treasurers.

Section 30 amends § 79-1036.

This section is amended to limit in-lieu-of-taxes for school lands to lands that are used for a public purpose.

Section 31 amends § 79-1044.

This section is amended by changing the deadline for apportionment of forest reserve funds from the third Monday in July to August 5<sup>th</sup>.

Section 32 amends § 79-1047.

This section is amended by changing the deadline for apportionment of public grazing funds from the third Monday in July to August 5<sup>th</sup>.

Section 33 amends § 79-1051.

This section is amended by changing the deadline for apportionment of income from the leasing of lands acquired by the United States for flood control purposes from the third Monday in July to August 5<sup>th</sup>.

Section 34 amends § 79-1072.01.

Most of the provisions for the temporary mitigation funds are deleted, except those necessary to recover funds from districts that did not merge, consolidate, or unify. Clarification is added that only districts that qualified based on an intent to merge, consolidate, or unify need to pay those funds back if they did not take such action prior to June 30, 2000.

Section 35 amends § 79-1072.02.

This section is amended to exclude funds expended by a district to make repayments to the Hardship Fund from the expenditure limitations.

Section 36 amends § 79-1072.03.

This section is amended to exclude funds expended by a district to make repayments to the Hardship Fund from the expenditure limitations.

Section 37 amends § 79-1083.03.

With the modifications, the school board of a Class I district would be authorized to amend their general fund budget of expenditures after October 15<sup>th</sup>:

By increasing the special education budget of expenditures;

For any special grant funds received any time during a school fiscal year; or  
For current fiscal year expenditures the board deems essential if the expenditures could not  
reasonable have been anticipated at the time the budget was adopted.

The revised budget shall be filed pursuant to §§ 13-511 and 79-1024. These provisions replace  
the procedures for requesting additional total budget authority for the special education budget.  
For all other purposes the Class I will continue to be able to request additional budget authority  
from the high school districts on or before March 10<sup>th</sup>.

Obsolete language is eliminated.

Section 38 amends § 79-1089.

The deadline for filing school district audits with the Commissioner of Education and the  
Auditor of Public Accounts is moved from November 1<sup>st</sup> to November 5<sup>th</sup>.

Section 39 amends § 79-1092.

This section is amended by clarifying that funds for the school fund of any city of the primary  
class or city of the first class which may become a city of the metropolitan class shall be payable  
to the treasurer of the school district. The current language refers to the treasurer of the board of  
education.

A reference to § 79-1082 is also deleted from the purposes for which money from the school  
fund may be used. That section provides for a special levy for retirement obligations for Class V  
school districts.

Section 40 amends § 79-1125.

The definition of special education is clarified by stating that special education includes speech-  
language pathology, occupational therapy, and physical therapy if the therapy consists of  
specially designed instruction, at no cost to the parents or guardians, to meet the unique needs of  
a child with a disability.

Section 41 amends § 79-1132.

This section is amended to clarify the federal funds being used to fund the below age 5 special  
education programs.

Section 42 amends § 79-1142.

This section is amended by providing that the Department of Education, instead of the State  
Board of Education, will determine the pro rata distribution of special education funding and  
make the payments.

Section 43 amends § 79-1155.

This section is amended by providing that the Department of Education, instead of the State Board of Education, will review and approve, approve with modifications, or disapprove the plans and budgets for special education programs.

Section 44 amends § 79-1162.

A current restriction disallowing reimbursement for expenses incurred more than 60 days prior to the filing of a petition with the department regarding special education services is eliminated. This change is required to be in compliance with federal rules and regulations.

Obsolete language is also eliminated.

Section 45 amends § 79-1202.

This section is amended by requiring school district 44-001 of Lancaster County to remain E.S.U. No. 18 and school district 28-001 of Douglas County to remain E.S.U. No. 19.

Section 46 amends § 79-1217.

This section is amending by exempting E.S.U.'s 18 and 19 from the governance provisions applying to all other E.S.U.'s. Additional provisions require those two E.S.U.'s to be governed by the board of education of the school district that makes up that E.S.U.

Section 47 amends § 79-1241.02.

This section is amended by modifying the procedure for the N.I.T.C. to review technology-related projects or initiatives undertaken by an educational service unit using core services funding. The current procedure is a review by the technical panel and review and prioritization by the N.I.T.C. The new procedure would simply be a review by the technical panel of the N.I.T.C.

Section 48 amends § 85-1641.

This section is amended by clarifying which private postsecondary career schools must provide a surety bond or other security agreement until the Tuition Recovery Cash Fund reaches the minimum fund level prescribed in § 86-1656. A provision is added that the surety bond of an agent provided for in § 85-1640 shall cover the period of the agent's permit except when a surety is released as provided for in this section.

Language in the section is also simplified for clarity.

Section 49 amends § 85-1642.

This section is amended by clarifying that the minimum fund level is prescribed in § 85-1656 and the surety bond or agreement requirement is in § 85-1639.

Language is also simplified for clarity.

Section 50 amends § 85-1657.

The limitation on claims against the Tuition Recovery Cash Fund to tuition and fees paid to the school for which classes were not offered and no refunds made is eliminated.

A student injured by the termination of operations by a private postsecondary career school would be defined as:

1. A student who has paid tuition and fees to the school for which classes were not offered and no refunds were made; or
2. A student who ceased to be enrolled in classes while the school was in operation and to whom a refund of unearned tuition and fees became due after the school terminated operations and no refunds were made within the required time period.

Section 51 is the general repealer section.

Section 52 is the outright repealer section.

Sections 79-8,102 to 79-8,105 provide for the Reserve Teacher Program. Teachers that retired prior to September 1, 1958 were eligible for the program and received an annual salary of \$2,400. There are no longer any eligible retired teachers.

Section 79-1022.01 provided for the recertification of state aid for the 1999-2000 school fiscal year.

Section 79-1076 provided for the non-resident high school tuition fund.

**Explanation of amendments, if any:**

The committee amendments do the following:

1. The original section 6 is deleted from the measure. Similar provisions were contained in LB 302, which was signed by the Governor earlier this session.
2. The proposed requirement is removed for filing a copy of the hearing notice and proof of publication with the Auditor of Public Accounts for hearings on setting tax requests at an amount different than the tax request in the prior year.
3. The measurement of students for determining eligibility for “freeholding” is clarified to be based on school fiscal years, not school years. This clarification is also contained in LB 654.
4. Clarification is added that a reference to a federal provision refers to the federal provision as it existed on the effective date of this act.
5. The term “board of education” is replaced with “school board” as part of a continuing effort to harmonize language in Chapter 79.

6. Section 79-413 is removed from the repealer section to harmonize with the removal of section 6 by amendment 1.
7. The sections are renumbered due to the removal of section 6 by amendment 1.

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**Senator Ron Raikes, Chairperson**