

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 357**

Introduced by Flood, 19

Read first time January 12, 2007

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend section 79-1003, Revised  
2 Statutes Cumulative Supplement, 2006, as affected by  
3 Referendum 2006, No. 422; to provide for community  
4 schools, operating councils, and elementary improvement  
5 grants; to prohibit closing certain elementary attendance  
6 centers as prescribed; to provide a duty for the Revisor  
7 of Statutes; to harmonize provisions; and to repeal the  
8 original section.

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

1           Section 1. Any elementary attendance center may be  
2 designated as a community school through the formation of an  
3 operating council. If the school board of a Class II, III, IV, or  
4 V school district receives a request for an elementary attendance  
5 center to be designated as a community school, the school board  
6 shall hold an operating council organizational meeting at such  
7 elementary attendance center within sixty days after receiving the  
8 request, except that the school board shall not be required to hold  
9 organizational meetings at any one elementary attendance center  
10 more than once during a calendar year.

11           School boards of Class II, III, IV, and V school  
12 districts shall establish procedures for the formation of operating  
13 councils. Once formed, operating councils shall determine the  
14 timing and procedures for selecting successor members. Each  
15 operating council shall be composed of not less than three and not  
16 more than six members.

17           Operating councils shall be advisory to the  
18 superintendent, the school board, and the principal of the  
19 community school on all matters affecting the community school.  
20 Operating councils shall propose and submit a budget for the  
21 community school to the school board, and one or more members  
22 of the operating council shall interview and recommend staff for  
23 the community school. The superintendent of any school district  
24 containing at least one community school shall provide each  
25 operating council with a copy of public information provided by

1 the school district staff to the school board regarding the budget  
2 and staffing decisions for the community school and proposed  
3 policy changes affecting the community school. The principal of a  
4 community school shall provide an opportunity for the operating  
5 council to meet with the principal not less than once each month.

6           Sec. 2. (1) The school board of any Class II, III, IV,  
7 or V school district shall not take action to close an elementary  
8 attendance center or to change the elementary grades offered at an  
9 elementary attendance center if:

10           (a) The closing of the elementary attendance center or  
11 the changing of the elementary grades offered at such elementary  
12 attendance center would cause at least one resident elementary  
13 student to reside more than twenty miles from the nearest  
14 elementary attendance center in the district on a route that  
15 would be actually and necessarily traveled from the student's  
16 residence to such elementary attendance center; and

17           (b) A parent or guardian of such student has notified  
18 the school board in writing of the distance from the student's  
19 residence to the nearest elementary attendance center as described  
20 in subdivision (1)(a) of this section and such written notification  
21 was received on or before May 1 of the school year preceding the  
22 first school year in which the elementary attendance center would  
23 be closed or the grades offered would be changed.

24           (2) The school board of any Class II, III, IV, or V  
25 school district shall not take action to close an elementary

1 attendance center or to change the elementary grades offered at an  
2 elementary attendance center if:

3 (a) The fall membership of the elementary attendance  
4 center for the school year immediately preceding the first school  
5 year in which the elementary attendance center would be closed  
6 or the grades offered would be changed included at least ten  
7 students who were either resident students, students residing  
8 within the boundaries of a former Class I district that contained  
9 the elementary attendance center as such boundaries existed for  
10 school year 2005-06, or students who were in the fall membership  
11 of the elementary attendance center for school year 2005-06 if the  
12 elementary attendance center was in a Class I school district at  
13 such time; and

14 (b) Either:

15 (i) The elementary attendance center is at least ten  
16 miles on a route that would be actually and necessarily traveled  
17 from the closest elementary attendance center within the district;

18 (ii) The elementary attendance center is at least ten  
19 miles on a route that would be actually and necessarily traveled  
20 from the closest elementary attendance center within the district  
21 for which the fall membership for the immediately preceding school  
22 year included a total number of resident elementary students that  
23 was at least ten times the number of elementary grades offered at  
24 such elementary attendance center; or

25 (iii) The elementary attendance center is the only

1 elementary attendance center located within the boundaries of  
2 an incorporated city or village.

3 (3) The school board of any Class II, III, IV, or V  
4 school district shall not take action to close an elementary  
5 attendance center or to change the elementary grades offered at  
6 an elementary attendance center without the approval of at least  
7 seventy-five percent of the school board of the Class II, III, IV,  
8 or V school district if:

9 (a) The fall membership of the elementary attendance  
10 center for the school year immediately preceding the first school  
11 year in which the elementary attendance center would be closed or  
12 the grades offered would be changed included at least ten students  
13 who were either resident students, students residing within the  
14 boundaries of a former Class I school district that contained  
15 the elementary attendance center as such boundaries existed for  
16 school year 2005-06, or students who were in the fall membership  
17 of the elementary attendance center for school year 2005-06 if the  
18 elementary attendance center was in a Class I school district at  
19 such time; and

20 (b) Either:

21 (i) The elementary attendance center is at least four  
22 miles but less than ten miles, on a route that would be actually  
23 and necessarily traveled, from the closest elementary attendance  
24 center within the district; or

25 (ii) The elementary attendance center is at least four

1 miles but less than ten miles, on a route that would be actually  
2 and necessarily traveled, from the closest elementary attendance  
3 center within the district for which the fall membership for  
4 the immediately preceding school year included a total number of  
5 resident elementary students that was at least ten times the number  
6 of elementary grades offered at such elementary attendance center.

7 (4) Until the completion of the school year in which a  
8 kindergarten student from school year 2005-06 would complete the  
9 highest grade offered at the elementary attendance center if such  
10 student would progress through the grades at the normal rate, the  
11 school board of any Class II, III, IV, or V school district shall  
12 not take action to close an elementary attendance center or to  
13 change the elementary grades offered at an elementary attendance  
14 center if:

15 (a) The fall membership of the elementary attendance  
16 center for the school year immediately preceding the first school  
17 year in which the elementary attendance center would be closed or  
18 the grades offered would be changed included at least five students  
19 who were either resident students, students residing within the  
20 boundaries of a former Class I school district that contained  
21 the elementary attendance center as such boundaries existed for  
22 school year 2005-06, or students who were in the fall membership  
23 of the elementary attendance center for school year 2005-06 if the  
24 elementary attendance center was in a Class I school district at  
25 such time; and

1           (b) At least one resident student, student residing  
2 within the boundaries of a former Class I school district that  
3 contained the elementary attendance center as such boundaries  
4 existed for school year 2005-06, or student who was in the fall  
5 membership of the elementary attendance center for school year  
6 2005-06 if the elementary attendance center was in a Class I school  
7 district at such time has registered to attend such elementary  
8 attendance center as of August 1 immediately preceding the  
9 beginning of the school year for which the elementary attendance  
10 center would be closed or the grades offered would be changed.

11           (5) Except when an elementary attendance center fails to  
12 meet the provisions of subdivision (4)(b) of this section, the  
13 school board of any Class II, III, IV, or V school district shall  
14 not take action to close an elementary attendance center or to  
15 change the elementary grades offered at an elementary attendance  
16 center unless public notice has been given that the school board is  
17 considering such action on or before January 1 of the school year  
18 preceding the first school year for which the elementary attendance  
19 center would be closed or the grades offered would be changed.

20           (6) The temporary relocation of some or all of the  
21 students to an alternate elementary attendance center for a period  
22 not to exceed two years shall not constitute the closing of an  
23 elementary attendance center or a change in the grades offered  
24 at such elementary attendance center. Such alternate elementary  
25 attendance center shall not be subject to subsection (1), (2),

1 (3), or (4) of this section. The grades offered at the alternate  
2 elementary attendance center shall include any grade for which  
3 a student could enroll and receive education at the elementary  
4 attendance center for the specified school year.

5 (7) For purposes of this section:

6 (a) Elementary attendance center means a building in  
7 which education was offered by a school district in one or more of  
8 the grades kindergarten through grade four;

9 (b) Resident elementary student means a student who will  
10 be attending school in an elementary grade in the school year in  
11 which the elementary attendance center would otherwise be closed  
12 or the grades offered would otherwise be changed and who resides  
13 within the boundaries of the school district which contains the  
14 elementary attendance center; and

15 (c) Resident student means a student who resides within  
16 the boundaries of the school district which contains the elementary  
17 attendance center.

18 Sec. 3. A Class II or Class III school district shall  
19 qualify for an elementary improvement grant for school fiscal years  
20 2008-09, 2009-10, and 2010-11 if:

21 (1) The voters of the district approve a bond issue  
22 for at least two million dollars on or after June 15, 2007,  
23 and on or before June 14, 2008, for a project to remodel an  
24 existing elementary attendance center or to build a new elementary  
25 attendance center;

1           (2) Demographic factors increase the number of weighted  
2 formula students for the school district's local system by at  
3 least four and one-half percent to arrive at the adjusted formula  
4 students for the final calculation of state aid pursuant to section  
5 79-1065 for the 2007-08 school year;

6           (3) The final calculation of state aid pursuant to  
7 section 79-1065 for the 2007-08 school year included at least three  
8 hundred ninety formula students for the school district's local  
9 system;

10           (4) The school district consists of at least one hundred  
11 fifty square miles; and

12           (5) The State Board of Education approves the project as  
13 being designed to improve the educational environment for students  
14 with diverse economic and cultural backgrounds.

15           The amount to be distributed each school fiscal year  
16 shall be divided equally among qualifying school districts up to  
17 one hundred thousand dollars for each school district. The amount  
18 to be distributed shall be distributed to the school district as  
19 one lump-sum payment on the last business day of December and shall  
20 be treated as special grant funds as defined in section 79-1003.

21           Sec. 4. Section 79-1003, Revised Statutes Cumulative  
22 Supplement, 2006, as affected by Referendum 2006, No. 422, is  
23 amended to read:

24           79-1003 For purposes of the Tax Equity and Educational  
25 Opportunities Support Act:

1           (1) Adjusted general fund operating expenditures means  
2     (a) for school fiscal years before school fiscal year 2007-08,  
3     general fund operating expenditures as calculated pursuant to  
4     subdivision (24) of this section minus the transportation allowance  
5     and minus the special receipts allowance, (b) for school fiscal  
6     year 2007-08, general fund operating expenditures as calculated  
7     pursuant to subdivision (24) of this section minus the sum of  
8     the transportation, special receipts, and distance education and  
9     telecommunications allowances, and (c) for school fiscal year  
10    2008-09 and each school fiscal year thereafter, the difference  
11    of the product of the general fund operating expenditures as  
12    calculated pursuant to subdivision (24) of this section multiplied  
13    by the cost growth factor for the school district's cost grouping  
14    calculated pursuant to section 79-1007.10 minus the transportation  
15    allowance, special receipts allowance, poverty allowance, limited  
16    English proficiency allowance, elementary class size allowance, and  
17    focus school and program allowance;

18           (2) Adjusted valuation means the assessed valuation of  
19    taxable property of each local system in the state, adjusted  
20    pursuant to the adjustment factors described in section 79-1016.  
21    Adjusted valuation means the adjusted valuation for the property  
22    tax year ending during the school fiscal year immediately preceding  
23    the school fiscal year in which the aid based upon that value is  
24    to be paid. For purposes of determining the local effort rate yield  
25    pursuant to section 79-1015.01, adjusted valuation does not include

1 the value of any property which a court, by a final judgment from  
2 which no appeal is taken, has declared to be nontaxable or exempt  
3 from taxation;

4 (3) Allocated income tax funds means the amount of  
5 assistance paid to a local system pursuant to section 79-1005.01 or  
6 79-1005.02 as adjusted by the minimum levy adjustment pursuant to  
7 section 79-1008.02;

8 (4) Average daily attendance of a student who resides on  
9 Indian land means average daily attendance of a student who resides  
10 on Indian land from the most recent data available on November 1  
11 preceding the school fiscal year in which aid is to be paid;

12 (5) Average daily membership means the average daily  
13 membership for grades kindergarten through twelve attributable to  
14 the local system, as provided in each district's annual statistical  
15 summary, and includes the proportionate share of students enrolled  
16 in a public school instructional program on less than a full-time  
17 basis;

18 (6) Base fiscal year means the first school fiscal year  
19 following the school fiscal year in which the reorganization or  
20 unification occurred;

21 (7) Board means the school board of each school district;

22 (8) Categorical funds means funds limited to a specific  
23 purpose by federal or state law, including, but not limited to,  
24 Title I funds, Title VI funds, federal vocational education funds,  
25 federal school lunch funds, Indian education funds, Head Start

1 funds, and funds from the Education Innovation Fund;

2 (9) Consolidate means to voluntarily reduce the number of  
3 school districts providing education to a grade group and does not  
4 include dissolution pursuant to section 79-498;

5 (10) Converted contract means an expired contract that  
6 was in effect for at least fifteen years for the education of  
7 students in a nonresident district in exchange for tuition from  
8 the resident district when the expiration of such contract results  
9 in the nonresident district educating students who would have been  
10 covered by the contract if the contract were still in effect  
11 as option students pursuant to the enrollment option program  
12 established in section 79-234;

13 (11) Converted contract option students means students  
14 who will be option students pursuant to the enrollment option  
15 program established in section 79-234 for the school fiscal year  
16 for which aid is being calculated and who would have been covered  
17 by a converted contract if the contract were still in effect and  
18 such school fiscal year is the first school fiscal year for which  
19 such contract is not in effect;

20 (12) Department means the State Department of Education;

21 (13) Distance education and telecommunications allowance  
22 means, for state aid calculated for school fiscal year 2007-08  
23 and each school fiscal year thereafter, eighty-five percent of  
24 the difference of the costs for (a) telecommunications services,  
25 (b) access to data transmission networks that transmit data to

1 and from the school district, and (c) the transmission of data  
2 on such networks paid by the school districts in the local  
3 system as reported on the annual financial report for the most  
4 recently available complete data year minus the receipts from the  
5 federal Universal Service Fund pursuant to section 254 of the  
6 Telecommunications Act of 1996, 47 U.S.C. 254, as such section  
7 existed on January 1, 2006, for the school districts in the local  
8 system as reported on the annual financial report for the most  
9 recently available complete data year;

10 (14) District means any Class I, II, III, IV, V, or VI  
11 school district;

12 (15) Ensuing school fiscal year means the school fiscal  
13 year following the current school fiscal year;

14 (16) Equalization aid means the amount of assistance  
15 calculated to be paid to a local system pursuant to sections  
16 79-1008.01 to 79-1022 and 79-1022.02;

17 (17) Fall membership means the total membership in  
18 kindergarten through grade twelve attributable to the local system  
19 as reported on the fall school district membership reports for each  
20 district pursuant to section 79-528;

21 (18) Fiscal year means the state fiscal year which is the  
22 period from July 1 to the following June 30;

23 (19) Formula students means (a) for state aid certified  
24 pursuant to section 79-1022, the sum of fall membership from the  
25 school fiscal year immediately preceding the school fiscal year in

1 which the aid is to be paid, multiplied by the average ratio of  
2 average daily membership to fall membership for the second school  
3 fiscal year immediately preceding the school fiscal year in which  
4 aid is to be paid and the prior two school fiscal years, plus  
5 qualified early childhood education fall membership plus tuitioned  
6 students from the school fiscal year immediately preceding the  
7 school fiscal year in which the aid is to be paid and (b) for final  
8 calculation of state aid pursuant to section 79-1065, the sum of  
9 average daily membership plus qualified early childhood education  
10 average daily membership plus tuitioned students from the school  
11 fiscal year immediately preceding the school fiscal year in which  
12 the aid was paid;

13 (20) Free lunch and free milk student means a student  
14 who qualified for free lunches or free milk from the most recent  
15 data available on November 1 of the school fiscal year immediately  
16 preceding the school fiscal year in which aid is to be paid;

17 (21) Full-day kindergarten means kindergarten offered by  
18 a district for at least one thousand thirty-two instructional  
19 hours;

20 (22) General fund budget of expenditures means the total  
21 budget of disbursements and transfers for general fund purposes as  
22 certified in the budget statement adopted pursuant to the Nebraska  
23 Budget Act, except that for purposes of the limitation imposed in  
24 section 79-1023, the calculation of Class I total allowable general  
25 fund budget of expenditures minus the special education budget of

1 expenditures pursuant to section 79-1083.03, and the calculation  
2 pursuant to subdivision (2) of section 79-1027.01, the general fund  
3 budget of expenditures does not include any special grant funds,  
4 exclusive of local matching funds, received by a district subject  
5 to the approval of the department;

6 (23) General fund expenditures means all expenditures  
7 from the general fund;

8 (24) General fund operating expenditures means the total  
9 general fund expenditures minus categorical funds, tuition paid,  
10 transportation fees paid to other districts, adult education,  
11 summer school, community services, redemption of the principal  
12 portion of general fund debt service, retirement incentive plans,  
13 staff development assistance, and transfers from other funds into  
14 the general fund for the second school fiscal year immediately  
15 preceding the school fiscal year in which aid is to be paid;

16 (25) High school district means a school district  
17 providing instruction in at least grades nine through twelve;

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

22 (27) Income tax receipts means the amount of income tax  
23 collected pursuant to the Nebraska Revenue Act of 1967 less all  
24 nonrefundable credits earned and refunds made;

25 (28) Limited English proficiency student means a student

1 with limited English proficiency from the most recent data  
2 available on November 1 of the school fiscal year preceding  
3 the school fiscal year in which aid is to be paid;

4 (29) Local system means a Class VI district and the  
5 associated Class I districts or a Class II, III, IV, or V district  
6 and any affiliated Class I districts or portions of Class I  
7 districts and for school fiscal year 2008-09 and each school fiscal  
8 year thereafter, a learning community or a Class II, III, IV,  
9 or V district that is not a member of a learning community.  
10 The membership, expenditures, and resources of Class I districts  
11 that are affiliated with multiple high school districts will be  
12 attributed to local systems based on the percent of the Class I  
13 valuation that is affiliated with each high school district;

14 (30) Low-income child means (a) for school fiscal years  
15 prior to 2008-09, a child under nineteen years of age living in  
16 a household having an annual adjusted gross income of fifteen  
17 thousand dollars or less for the second calendar year preceding  
18 the beginning of the school fiscal year for which aid is being  
19 calculated and (b) for school fiscal year 2008-09 and each school  
20 fiscal year thereafter, a child under nineteen years of age living  
21 in a household having an annual adjusted gross income for the  
22 second calendar year preceding the beginning of the school fiscal  
23 year for which aid is being calculated equal to or less than the  
24 maximum household income that would allow a student from a family  
25 of four people to be a free lunch and free milk student during the

1 school fiscal year immediately preceding the school fiscal year for  
2 which aid is being calculated;

3 (31) Low-income students means the number of low-income  
4 children within the local system multiplied by the ratio of the  
5 formula students in the local system divided by the total children  
6 under nineteen years of age residing in the local system as derived  
7 from income tax information;

8 (32) Most recently available complete data year means  
9 the most recent single school fiscal year for which the annual  
10 financial report, fall school district membership report, annual  
11 statistical summary, Nebraska income tax liability by school  
12 district for the calendar year in which the majority of the school  
13 fiscal year falls, and adjusted valuation data are available;

14 (33) Poverty students means the number of low-income  
15 students or the number of formula students who are free lunch and  
16 free milk students in a local system, whichever is greater;

17 (34) Qualified early childhood education average daily  
18 membership means the product of the average daily membership for  
19 school fiscal year 2006-07 and each school fiscal year thereafter  
20 of students who will be eligible to attend kindergarten the  
21 following school year and are enrolled in an early childhood  
22 education program approved by the department pursuant to section  
23 79-1103 for such school district for such school year if: (a)  
24 The program is receiving a grant pursuant to such section for the  
25 third year; (b) the program has already received grants pursuant to

1 such section for three years; or (c) the program has been approved  
2 pursuant to subsection (5) of section 79-1103 for such school year  
3 and the two preceding school years, including any such students  
4 in portions of any of such programs receiving an expansion grant,  
5 multiplied by the ratio of the actual instructional hours of the  
6 program divided by one thousand thirty-two;

7 (35) Qualified early childhood education fall membership  
8 means the product of membership on the last Friday in September  
9 2006 and each year thereafter of students who will be eligible  
10 to attend kindergarten the following school year and are enrolled  
11 in an early childhood education program approved by the department  
12 pursuant to section 79-1103 for such school district for such  
13 school year if: (a) The program is receiving a grant pursuant  
14 to such section for the third year; (b) the program has already  
15 received grants pursuant to such section for three years; or (c)  
16 the program has been approved pursuant to subsection (5) of section  
17 79-1103 for such school year and the two preceding school years,  
18 including any such students in portions of any of such programs  
19 receiving an expansion grant, multiplied by the ratio of the  
20 planned instructional hours of the program divided by one thousand  
21 thirty-two;

22 (36) Regular route transportation means the  
23 transportation of students on regularly scheduled daily routes to  
24 and from the attendance center;

25 (37) Reorganized district means any district involved

1 in a consolidation and currently educating students following  
2 consolidation;

3 (38) School year or school fiscal year means the fiscal  
4 year of a school district as defined in section 79-1091;

5 (39) Special education means specially designed  
6 kindergarten through grade twelve instruction pursuant to section  
7 79-1125, and includes special education transportation;

8 (40) Special grant funds means the budgeted receipts for  
9 grants, including, but not limited to, Title I funds, Title VI  
10 funds, funds from the Education Innovation Fund, reimbursements  
11 for wards of the court, short-term borrowings including, but  
12 not limited to, registered warrants and tax anticipation notes,  
13 interfund loans, insurance settlements, elementary improvement  
14 grants pursuant to section 3 of this act, and reimbursements  
15 to county government for previous overpayment. The state board  
16 shall approve a listing of grants that qualify as special grant  
17 funds;

18 (41) Special receipts allowance means the amount of  
19 special education, state ward, and accelerated or differentiated  
20 curriculum program receipts included in local system formula  
21 resources under subdivisions (7), (8), (16), and (17) of section  
22 79-1018.01 attributable to the school district;

23 (42) State aid means the amount of assistance paid to a  
24 district pursuant to the Tax Equity and Educational Opportunities  
25 Support Act;

1           (43) State board means the State Board of Education;

2           (44) State support means all funds provided to districts  
3 by the State of Nebraska for the general fund support of elementary  
4 and secondary education;

5           (45) Temporary aid adjustment factor means (a) for school  
6 fiscal years before school fiscal year 2007-08, one and one-fourth  
7 percent of the sum of the local system's transportation allowance,  
8 the local system's special receipts allowance, and the product  
9 of the local system's adjusted formula students multiplied by  
10 the average formula cost per student in the local system's cost  
11 grouping and (b) for school fiscal year 2007-08 and each school  
12 fiscal year thereafter, one and one-fourth percent of the sum  
13 of the local system's transportation allowance, special receipts  
14 allowance, and distance education and telecommunications allowance  
15 and the product of the local system's adjusted formula students  
16 multiplied by the average formula cost per student in the local  
17 system's cost grouping;

18           (46) Transportation allowance means the lesser of (a)  
19 each local system's general fund expenditures for regular route  
20 transportation and in lieu of transportation expenditures pursuant  
21 to section 79-611 in the second school fiscal year immediately  
22 preceding the school fiscal year in which aid is to be paid,  
23 but not including special education transportation expenditures or  
24 other expenditures previously excluded from general fund operating  
25 expenditures, or (b) the number of miles traveled in the second

1 school fiscal year immediately preceding the school fiscal year in  
2 which aid is to be paid by vehicles owned, leased, or contracted  
3 by the district or the districts in the local system for the  
4 purpose of regular route transportation multiplied by four hundred  
5 percent of the mileage rate established by the Department of  
6 Administrative Services pursuant to section 81-1176 as of January 1  
7 of the most recently available complete data year added to in lieu  
8 of transportation expenditures pursuant to section 79-611 from the  
9 same data year;

10 (47) Tuition receipts from converted contracts means  
11 tuition receipts received by a district from another district  
12 in the most recently available complete data year pursuant to a  
13 converted contract prior to the expiration of the contract; and

14 (48) Tuitioned students means students in kindergarten  
15 through grade twelve of the district whose tuition is paid by the  
16 district to some other district or education agency.

17 Sec. 5. The Revisor of Statutes shall assign sections 1  
18 to 3 of this act within Chapter 79.

19 Sec. 6. Original section 79-1003, Revised Statutes  
20 Cumulative Supplement, 2006, as affected by Referendum 2006, No.  
21 422, is repealed.