

LEGISLATIVE BILL 940

Approved by the Governor April 8, 1988

Introduced by Withem, 14

AN ACT relating to schools; to amend sections 79-102.01, 79-426.05, 79-426.08, 79-4,102 to 79-4,104, 79-1247.02, and 79-1335, Reissue Revised Statutes of Nebraska, 1943; to state intent; to change provisions relating to the formation of new school districts, county committees for the reorganization of school districts, accreditation, and eligibility for certain aid; to require a plan of reorganization; to create advisory committees and a commission; to provide for the coordination of curricula; to eliminate provisions on pilot programs; to provide powers and duties; to provide for funding as prescribed; to create a fund; to change and repeal provisions on nonresident high school tuition; to provide operative dates; and to repeal the original sections, and also sections 79-436, 79-437, 79-495 to 79-499, 79-4,101, and 79-4,105, Reissue Revised Statutes of Nebraska, 1943, and sections 79-4,102 to 79-4,104, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 7 to 9, respectively, Legislative Bill 940, Ninetieth Legislature, Second Session, 1988.

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

Section 1. The Legislature hereby finds and declares that orderly and appropriate reorganization of school districts may contribute to the objectives of tax equity, educational effectiveness, and cost efficiency. The Legislature further finds that there is a need for greater flexibility in school reorganization options and procedures. It is the intent of the Legislature to encourage an orderly and appropriate reorganization of school districts. The Legislature hereby establishes as its goals for the reorganization of school districts that:

(1) All real property and all elementary and secondary students should be within school systems which offer education in grades kindergarten through twelve. For purposes of meeting this goal, Class I and Class VI

school district combinations shall be considered as including all real property and all elementary and secondary students within a school district which offers education in kindergarten through grade twelve.

(2) School districts offering education in kindergarten through grade twelve should be encouraged, when possible, to consider cooperative programs in order to enhance educational opportunities to students;

(3) County reorganization committees should make a renewed effort to consider and plan for reorganization of schools at the local level; and

(4) The State Department of Education in conjunction with the Bureau of Educational Research and Field Studies in the Department of Education Administration at the University of Nebraska-Lincoln should be encouraged to offer greater technical assistance to school districts which are considering reorganization options.

Sec. 2. That section 79-102.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-102.01. After June 17, 1971 (1) Except as provided in subsection (2) of this section, no new school district shall be created unless such district provides instruction in kindergarten through grade twelve, or a Class VI district providing instruction in grades seven through twelve, but no Class VI district shall be formed within five miles of an existing Class III, IV, or V school district unless such Class III, IV, or V school district shall have voted by a fifty-five percent majority vote to be a part of the Class VI district.

(2) A new Class VI school district may be created if:

(a) The boundaries of the district are not closer than five miles from the boundaries of a city with a population of three thousand five hundred inhabitants or more unless such city is in a school district which has, by a majority vote of its board of education, opted to become part of the new Class VI school district;

(b) Such Class VI school district will include at least two or more previously existing Class II or Class III school districts, except that if a reorganization petition for formation of a Class VI school district is initiated by a petition signed by sixty-five percent of the legal voters of a Class II or III school district, then such Class VI school district may include only one Class II or III school district;

and

(c) The enrollment of the new Class VI school district is (i) at least one hundred twenty-five pupils if the district offers instruction in grades nine through twelve or (ii) at least one hundred seventy-five pupils if the district offers instruction in grades seven through twelve, except that if such district will have population density of less than three persons per square mile, then the enrollment shall be at least seventy-five students if the district offers instruction in grades nine through twelve or at least one hundred students if the district offers instruction in grades seven through twelve.

Sec. 3. That section 79-426.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-426.05. There is hereby established in each county in the state a committee for the reorganization of school districts, to be known as the county committee. Each county committee shall be composed of not less than ~~six~~ seven nor more than ~~ten~~ twelve members. The county committee of the county in which the schoolhouse or the administrative office of a joint school district lying in two or more counties is located shall be designated to have within its jurisdiction the territory of ~~said~~ such joint school district for the purpose of organizing school districts.

All of the members of the school boards and boards of education within the county and joint school districts under the jurisdiction of a county committee shall, at a meeting called for such purpose by the county superintendent of schools within one hundred twenty days from the operative date of this section, and each four years thereafter, determine by a majority vote of those present the number of members of the county committee within the limits prescribed in this section. One member of the county committee shall be the county superintendent of schools, who shall serve as a nonvoting member of the committee, and each class of school district within the county shall have one member on the committee. The remaining members shall be elected from each class of school district any Class I school district not associated with a Class VI school district and any Class II, III, IV, V, or VI school district within the county so that the total committee membership is as nearly as possible in the proportion that their population bears to the entire county population the total school census for children from birth to twenty-one years of age in each class of school

district within the county bears to the total school census for children from birth to twenty-one years of age in all school districts within the county. The school boards or boards of education representing each class of school district within the county and joint school districts under the jurisdiction of such county shall vote as separate units to select their representatives for the county committee. The members so elected shall serve four-year terms. All of the members of school boards and boards of education within the county and joint districts under the jurisdiction of that county committee shall, at a meeting called for that purpose by the county superintendent of schools within one hundred twenty days from August 27, 1949, and each four years thereafter, (1) determine by a majority vote of those present the number of members of the county committee within the limits prescribed in this section, and (2) elect for a term of four years all the remaining members of the committee other than the county superintendent of schools. Each class of school district shall have at least one representative on the committee. At least one of the elective members shall not be a member of any school board or board of education.

No member of a county committee shall continue to serve thereon if he or she ceases to be a resident of the county, the or of a joint school district under the jurisdiction of that county committee, or the school district from which he or she was elected. At the expiration of their terms, successors to members of the county committee shall be elected for a term terms of four years in the same manner as the initial election. Vacancies A vacancy in the membership of the county committee shall be filled for the unexpired term by a representative of the same class of school district as the previous member and shall be chosen by the remaining members of the county committee. Members of the county committee shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties, with mileage reimbursements to be computed at the rate provided in section 23-1112 for county officers and employees, the reimbursement to be allowed and paid from funds appropriated by the county board.

The county committee may employ professional and clerical help, and the cost of these services shall be paid from funds appropriated by the county board. It shall be the duty of the county superintendents of each of the several counties to submit to their respective

county boards a recommended sum to be appropriated for school district reorganization purposes.

Sec. 4. That section 79-426.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-426.08. (1) Each county committee shall receive and consider all plans and procedures submitted to it by the state committee. The county committee shall prepare and submit to the state committee, for its approval or disapproval, a plan of reorganization of school districts for the county. Such plan of reorganization shall be submitted to the state committee prior to January 1, 1966 1990.

(2) When a proposed plan of reorganization of school districts for the county, or part thereof, shall have ~~has~~ been tentatively agreed upon by a county committee, a map of the proposed district, or districts, shall be prepared showing the boundaries thereof and a statement of the description of the boundaries of such proposed district, or districts, and details of the plan. Such map and statement shall be placed on file with the county superintendent, together with a statement prepared by the committee setting forth the provisions of section 79-426.11 and other facts considered pertinent by ~~said~~ such committee for the information of the public as to the reasons for and benefits to be had from such proposal.

(3) The county superintendent shall give notice of the filing of such map and statement by publication of ~~said~~ such fact in a newspaper of general circulation in the area.

Sec. 5. There shall be created for each school district which accepts at least ten nonresident high school students pursuant to sections 79-494 to 79-4.105 an advisory committee which shall be composed of three school board members selected annually by all the school board members of the Class I school districts which send nonresident high school students to such district. The county superintendent shall annually call a meeting of all the school board members of such Class I school districts, not a part of a Class VI school district, for the purpose of establishing such advisory committees. Representatives shall serve three-year terms. The advisory committee shall provide advice and communication to the school board of such accepting districts regarding the secondary school program, facilities, and budget and the needs and concerns of students, parents, and taxpayers in the Class I school district or districts. Each advisory committee shall

meet at least biannually with the school board of the accepting school district and participate in good faith in those coordination requirements specified in section 6 of this act.

Sec. 6. Each school district which accepts nonresident high school students pursuant to sections 79-494 to 79-4,105 and each Class VI school district shall undertake efforts to provide for coordination of the curriculum between the elementary school program of instruction of participating Class I school districts and the secondary school program of instruction of such accepting school district or Class VI school district. Notwithstanding reasonable and good faith efforts to provide for coordination of curriculum, each school board of a Class I school district shall retain the final authority to determine matters of curriculum. Any additional costs incurred in providing the coordinated services required by this section shall be included as a cost of the secondary school program in the case of school districts accepting nonresident high school students pursuant to sections 79-494 to 79-4,105 and a cost of the Class VI school district in the case of a Class VI school district.

Sec. 7. That section 79-4,102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-4,102. (1) The county superintendent of each county in which a Class VI school is not maintained shall, within thirty days after the annual meeting, certify to the county board of supervisors or commissioners the number of qualified pupils whose parents or guardians have applied to the county superintendent for nonresident high school tuition privileges or special education requirements and a list of school districts and servicing agencies for handicapped pupils which have been approved by the State Board of Education as schools or service agencies qualified to grant nonresident public high school education or special education programs to nonresident pupils under sections 79-494 to 79-4,105 for nonhandicapped pupils and under sections 79-3315 and 79-3336 for handicapped high school age pupils.

(2) The high school tuition rate for nonresident pupils shall be determined annually by the finance division of the State Department of Education on a uniform taxation basis for the support of the high school program of the receiving district. Based on data provided to the State Department of Education pursuant to the requirements of sections 79-451, 79-1331, and

79-1333.02, data identifying the residence of enrolled registered nonresident students provided by the county superintendents, and such other data necessary to complete the calculations required by this section, the high school tuition charge shall be determined as follows:

(a) The total current expense of the receiving district as shown under the secondary column on the most recent annual term summary report on file with the State Department of Education, for operations supporting the program in grades nine through twelve only, and when necessary, adjustments shall be made to reflect such expenses for grades nine through twelve based on the weighted values per grade level established in section 79-1334, shall be determined;

(b) A combined valuation tax base shall be established, from data on file with the county assessors and the Department of Revenue, based on the sum of the total current valuation of the receiving district and a proportionate share of the current valuation of all existing Class I school districts not a part of any Class VI school district in each county where nonresident students reside who have registered to attend the receiving district for the ensuing school year reside immediately preceding five-year period. The receiving district's proportionate share of such Class I district valuation shall be determined by multiplying the total current valuation of the existing Class I districts not a part of any Class VI district in each county times a ratio equal to the total number of nonresident students from each such county who have registered to attend the receiving district for the immediately preceding five-year period for which enrollment data is available compared to the total number of nonresident students who have registered in each such county for the immediately preceding five-year period;

(c) The receiving district's proportionate share of Class I valuation, determined in subdivision (b) of this subsection, shall be divided by the combined valuation tax base, determined in subdivision (b) of this subsection, to derive a percentage. Such percentage shall be multiplied by the total current expense figure of the receiving district, determined in subdivision (a) of this subsection, to arrive at a figure representing the nonresident students' unadjusted share of operational expense. To such share shall be added a facility rental charge equal to five percent of the insurable or present value of the school plant and

equipment used in support of the program operated in grades nine through twelve multiplied by the percent equal to the number of nonresident students from existing Class I school districts not a part of any Class VI school districts who have registered to attend the receiving district for the immediately preceding five-year period for which enrollment data is available divided by the total enrollment of the receiving district in grades nine through twelve for such five-year period;

(d) The total current charge for nonresident high school students, determined in subdivision (c) of this subsection, shall be adjusted to reflect increasing or decreasing costs. The total current charge for nonresident students shall be multiplied by the annual cost of education index to be established by the State Department of Education. Such index shall be based on the average of the annual increases and decreases in the total disbursements in support of the operation of the public schools during the immediately preceding five-year period for which such information is available. The cost of education index shall be computed annually pursuant to guidelines established in the rules and regulations adopted and promulgated by the State Board of Education;

(e) There shall be added to the adjusted nonresident tuition charge, determined in subdivision (d) of this subsection, an additional service charge for handicapped pupils as provided by the rules and regulations adopted and promulgated by the State Board of Education pursuant to section 79-3348; and

(f) After May 30, 1987, and on or before July 15, 1987, the State Department of Education shall recertify such total high school tuition charge for the 1987-88 school year to the receiving district. The superintendent of the receiving district shall recertify the nonresident high school tuition charge for the 1987-88 school year to the county superintendent for transmittal to the county treasurer and each receiving district on or before July 31, 1987. On July 15, 1988, and each year thereafter, the State Department of Education shall certify the total high school tuition charge to the receiving district. The superintendent of the receiving district shall certify the nonresident high school tuition charge for the 1988-89 school year and each school year thereafter to the county superintendent for transmittal to the county treasurer and each receiving district on or before July 31 of each year.

(3) Any taxpayer may appeal from the action of the county board of equalization in resident concerning nonresident high school tuition in the manner provided in sections 77-1606 to 77-1610. The county treasurer, the county superintendent, and each school district receiving funds from the nonresident high school tuition affected by the appeal shall be necessary parties. If the taxpayer alleges that the levy for nonresident high school tuition is for an unlawful or unnecessary purpose or in excess of the requirements of the school district fixing nonresident high school tuition, such appeal shall not in any manner suspend the collection of any tax nor the duties of the officers relating to such tax collection while such appeal is pending. Notwithstanding section 77-1606, such appeal shall not suspend or stay in any manner the distribution of nonresident high school tuition funds.

(4) A taxpayer initiating an appeal may, as a part of such appeal and without instituting a separate action, apply to the court for injunctive relief pursuant to sections 25-1062 to 25-1080 to stay or suspend the distribution of nonresident high school tuition funds while the appeal is pending. If an appeal is brought under this subsection and the court orders the taxpayer to give security, such security shall be an amount sufficient to secure the party enjoined and any other necessary party the damages he, she, or it may sustain, if the court decides that the injunction was wrongfully granted.

Sec. 8. That section 79-4,103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-4,103. The secretary of any board of education of any school district located in any county to which sections 79-494 to 79-4,106 apply, or a district in another state which has reciprocal nonresident high school tuition relations with Nebraska, shall, on or before the second Monday in February, May, August, and November of each year, certify to the county superintendent the names and number of nonresident pupils enrolled in the high school of said district during the calendar quarter ending on or about the second Monday of February, May, August, and November, and the number of days those pupils were enrolled in the high school. The county superintendent thereupon shall certify the same nonresident high school tuition charges determined pursuant to section 79-4,102 to the county treasurer, who shall upon the order of the county superintendent, on or before March 1, June 1, September

1, and December 1 following, pay to the school district treasurers and to the treasurers of boards of education an amount sufficient to pay the high school tuition of said pupils charges at a rate fixed by law. If the nonresident high school tuition fund therein provided for shall is not be sufficient to pay the full amount of such tuition, then the fund shall be distributed pro rata among the districts entitled to such funds.

Sec. 9. That section 79-4,104, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-4,104. If any secretary of the school board or board of education of any school district shall fail or neglect to make report of the first semester or first half year attendance separately, he may include the same with the attendance report of the second semester or second half year, and the county treasurer shall pay for the whole attendance. In all cases where when there is not sufficient money to pay the whole amount due any district or districts for the first semester or first half year, the balance due shall be included with the payment for the second semester or second half year. If there shall be any such deficiency, it shall be provided for in making the levy for the succeeding year. If a balance remains in the fund after all claims have been paid, it shall not revert to the county general fund but shall remain in the nonresident high school fund and be deducted from the amount levied for the succeeding year. When any territory not included in a school district offering secondary education becomes a part of such a district, the territory's proportionate share of any balance remaining in the nonresident tuition fund as of September 15 shall be credited to the district of which the territory has become a part.

Sec. 10. That section 79-1247.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1247.02. (1)(a) To ensure both equality of opportunity and quality of programs offered, after July 1, 1989, all public schools in the state shall be required to meet quality and performance-based approval or accreditation standards as prescribed by the State Board of Education. The State Board of Education shall establish a core curriculum standard, which shall include vocational education courses, for all public schools in the state. Accreditation and approval standards shall be designed to assure effective schooling and quality of instructional programs

regardless of school size, wealth, or geographic location. The State Board of Education shall recognize and encourage the maximum use of cooperative programs and may provide for approval or accreditation of programs on a cooperative basis, including the sharing of administrative and instructional staff, between school districts for the purpose of meeting the approval and accreditation requirements established pursuant to this section and section 79-328.

(b) The State Department of Education shall conduct pilot projects using quality and performance-based criteria in selected Nebraska schools. The department shall report to the Legislature on the success or failure of such pilot projects by January 1, 1987.

(2) The Commissioner of Education is authorized to shall appoint an accreditation committee which shall be representative of the educational institutions and agencies of the state and shall include as a member the director of admissions of the University of Nebraska.

(3) The accreditation committee shall be responsible for: (a) Recommending appropriate standards and policies with respect to the accreditation and classification of schools; and (b) making recommendations annually to the commissioner relative to the accreditation and classification of individual schools. No school is to shall be considered for accreditation status which has not first fulfilled all requirements for an approved school.

(4) It is the goal of the Legislature that by school year 1993-94 all public schools in the state should be accredited.

(5) It is the intent of the Legislature that all public school students shall have access to all educational services required of accredited schools. Such services may be provided through cooperative programs or alternative methods of delivery.

(6) The State Board of Education shall by July 1, 1989, review the accreditation standards for public schools.

(7) The State Board of Education shall on or before January 1, 1990, adopt and promulgate needed revisions in accreditation rules and regulations and report to the Legislature on the standards developed pursuant to subsection (6) of this section.

Sec. 11. The School Financing Review Commission is hereby created. The commission shall consist of sixteen members including: (1) Three members

of the Legislature; (2) two individuals from higher education with expertise in the area of school finance; (3) the Commissioner of Education or his or her designee; (4) a representative of the Governor; (5) a member residing in a Class I school district; (6) a member residing in a Class II school district; (7) two members, each residing in a Class III school district; (8) a member residing in a Class IV school district; (9) a member residing in a Class V school district; (10) a member residing in a Class VI school district; and (11) two members from the state at large.

The members described in subdivisions (1), (2), and (4) to (11) of this section shall be appointed by the Governor with the approval of the Legislature within thirty days after the operative date of this section to serve through June 30, 1989. Vacancies shall be filled by the Governor for the remainder of the term. No member of the commission shall receive any compensation for his or her services. Reimbursement shall be provided for reasonable and necessary expenses incurred by members of the commission as provided in sections 81-1174 to 81-1177 for state employees.

The commission shall cease to exist June 30, 1989.

Sec. 12. The School Financing Review Commission shall conduct an indepth review of the financing of the public elementary and secondary schools. The committee shall:

(1) Examine the option of using income as a component in the financing of schools;

(2) Examine financing methods used in other states which offer alternatives to the current heavy reliance on property tax;

(3) Examine financing issues as they relate to the quality and performance of the schools; and

(4) Prepare a report with recommendations and a plan to implement the recommendations. The report shall be presented to the Legislature by March 1, 1989.

Sec. 13. The School Financing Review Commission shall have the power in carrying out its duties:

(1) To hire staff including consultants;

(2) To obtain assistance from the State Department of Education and the Department of Revenue in acquiring data needed to carry out its duties; and

(3) To contract for any necessary facilities, equipment, and services including computer services.

Sec. 14. The Legislature shall appropriate from the General Fund such money as may be necessary to

permit the School Financing Review Commission to carry out its duties. The appropriation shall be at least one hundred thousand dollars.

Sec. 15. (1) After the operative date of this section, if a school district merges with another school district or if two or more school districts combine to form a new school district, the accepting school district or new school district shall not receive less financial support under the School Foundation and Equalization Act than the former school districts combined received.

(2) Based upon a request by the State Department of Education, payments to the accepting school district or new school district shall be made from the School District Reorganization Fund, which fund is hereby created. If funds appropriated by the Legislature to the School District Reorganization Fund are not sufficient to implement subsection (1) of this section, the payments shall be made from funds appropriated to the School Foundation and Equalization Fund. Payments shall be made to the school districts in the manner provided in section 79-1333. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

(3) The provisions of this section shall not apply after June 30, 1993.

Sec. 16. That section 79-1335, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1335. To be eligible for aid, except for foundation aid under the provisions of section 79-1334, and incentive payments under section 79-1340, from the School Foundation and Equalization Fund, each school district shall have levied, in the manner prescribed by law, a tax on the valuation of all taxable property within the school district for the preceding year, except intangible property, on each one hundred dollars, as follows: (1) For Class I school districts offering education in grades kindergarten through six, not less than nineteen cents, and in Class I school districts offering education in grades kindergarten through eight, not less than eight mills and commencing January 1, 1981, not less than twenty-eight twenty-six cents; (2) for Class II, III, IV, and V school districts, not less than twelve mills and commencing January 1, 1981, not less than forty-two cents; and (3) for Class VI school districts offering education in grades seven through twelve, not less than twenty-three cents, and in Class

VI school districts offering education in grades nine through twelve, not less than eight mills and commencing January 1, 1981, not less than twenty-eight sixteen cents.

Sec. 17. It is the intent of the Legislature to restore funding to the School Foundation and Equalization Fund to the amount actually appropriated by the Legislature for the 1982-83 school year, which amount was one hundred and thirty-three million seven hundred and sixteen thousand one hundred dollars.

Sec. 18. Section 19 of this act shall become operative on July 1, 1991. The other sections of this act shall become operative on their effective date.

Sec. 19. That sections 79-436, 79-437, 79-495 to 79-499, 79-4,101, and 79-4,105, Reissue Revised Statutes of Nebraska, 1943, and sections 79-4,102 to 79-4,104, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 7 to 9, respectively, Legislative Bill 940, Ninetieth Legislature, Second Session, 1988, are repealed.

Sec. 20. That original sections 79-102.01, 79-426.05, 79-426.08, 79-4,102 to 79-4,104, 79-1247.02, and 79-1335, Reissue Revised Statutes of Nebraska, 1943, are repealed.