

LEGISLATIVE BILL 1290

Approved by the Governor April 19, 1994

Introduced by Warner, 25

AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend sections 79-3509.02, 79-3803, 79-3807 to 79-3809, and 79-3813, Revised Statutes Supplement, 1992, and sections 43-2513, 79-3806, and 79-3824, Revised Statutes Supplement, 1993; to define and redefine terms; to change provisions relating to equalization aid and state aid for schools for certain years; to change provisions relating to adjusted valuations of property for determining state aid to schools and to provide for notice, hearings, and appeals of such adjusted valuations; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 43-2513, Revised Statutes Supplement, 1993, be amended to read as follows:

43-2513. For purposes of subdivision (15) (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. That section 79-3509.02, Revised Statutes Supplement, 1992, be amended to read as follows:

79-3509.02. For purposes of subdivision (13) (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. That section 79-3803, Revised Statutes Supplement, 1992, be amended to read as follows:

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 ~~except that~~ 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) Board shall mean the school board or board of education of each school district;

(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;

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

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

(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;

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

(11) Equalization aid shall mean the amount of assistance paid to a district pursuant to sections 79-3806 to 79-3813;

(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;

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

(14) ~~(13)~~ 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 (i) 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 (ii) 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;

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

(16) ~~(15)~~ 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;

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

(18) ~~(17)~~ 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;

(19) ~~(18)~~ 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;

(20) ~~(19)~~ 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;

(21) ~~(20)~~ 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;

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

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

(24) ~~(23)~~ 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

(25) ~~(24)~~ 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. 4. That section 79-3806, Revised Statutes Supplement, 1993, be amended to read as follows:

79-3806. (1) 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 most recently available complete 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. 5. That section 79-3807, Revised Statutes Supplement, 1992, be amended to read as follows:

79-3807. (1) Except as provided in subsections (2) and (3) of this section, using each district's tiered cost per student as determined in section 79-3805, total formula need for each district shall be computed by first multiplying the number of formula students in each grade grouping of kindergarten, one through six, including full-day kindergarten, seven and

eight, and nine through twelve by each such district's corresponding tiered cost per student in each grade grouping. The sum of such products shall be the district's total formula need.

(2) For calculations of state aid to be paid in school year 1992-93 and each school year thereafter school year 1993-94, in school districts which certify to the department no later than June 15 of the current year that such district's average daily membership for the current year exceeds the average daily membership from the most recently available complete data year by more than twenty-five students and by more than one percent of the district's average daily membership from the most recently available complete data year, the total formula need computed pursuant to subsection (1) of this section shall be computed on the basis of formula students from the current year rather than the most recently available complete data year, except that any school district which so certifies shall not receive less state aid than such school district would have received if no adjustment in state aid had been made pursuant to this subsection. Average daily membership increases and formula student increases attributable to school district reorganization shall not be included in the calculations made pursuant to this subsection.

(3) For calculation of state aid to be paid in school year 1993-94 and each school year thereafter, total formula need for the nonresident high school tuition fund of each county shall equal the total nonresident high school tuition charge for the county for each such school year as certified by the department pursuant to section 79-4.102.

Sec. 6. That section 79-3808, Revised Statutes Supplement, 1992, be amended to read as follows:

79-3808. (1) District formula resources shall include local effort rate yield which shall be computed as prescribed in this section.

(2) The local effort rate shall be determined by the department. The local effort rate shall be the rate which, when multiplied by the total adjusted valuation of all taxable property in districts receiving equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act, will produce the amount needed to support the total formula need of such districts when added to state aid appropriated by the Legislature for the ensuing school year and other actual receipts of districts described in section 79-3811. The local effort rate for Class I districts, Class VI districts, and county nonresident high school tuition funds shall be based on the following schedule.

District	Grades for which legally responsible	Percentage of local effort rate
Class I	kindergarten through six	44.8276
Class I	kindergarten through eight	61.3793
Class VI	seven through twelve	55.1724
Class VI	nine through twelve	38.6207
County non- resident high school tuition funds	nine through twelve	38.6207

(3) For Class I, II, III, IV, V, and VI districts and, except as provided in subsection (5) of this section, for the nonresident high school tuition fund of each county, the local effort rate yield shall be determined by multiplying each district's total adjusted valuation from the most recently available complete data year by the local effort rate.

(4)(a) For the calculation of state aid to be paid in school years 1992-93, and 1993-94, and 1994-95, in addition to the local effort rate yield calculated pursuant to subsection (3) of this section, district formula resources for each Class II, III, IV, V, and VI district shall include 38.6207 percent of the local effort rate multiplied by the sum of: (a) (i) The assessed valuation from the current school year of Class I districts or portions thereof that in the current school year are not part of a Class VI district and are not affiliated but will be affiliated or merged with the Class II, III, IV, V, or VI district for the school year in which the calculated state aid is to be paid; and (b) (ii) the assessed valuation from the most recently available complete data year of Class I districts or portions thereof that in the most recently available complete data year were not part of a Class VI district and were not affiliated but were affiliated or merged with the Class II, III, IV, V, or VI district for the current school year.

(b) For the calculation of state aid to be paid in school year 1994-95 and each school year thereafter, in addition to the local effort rate yield calculated pursuant to subsection (3) of this section, district formula resources for each Class II, III, IV, and V district shall include 38.6207

percent of the local effort rate multiplied by the adjusted valuation for the year in which the aid is to be paid as certified pursuant to section 79-3809 of Class I districts or portions thereof that are affiliated with such district for such year.

(5) For the calculation of state aid to be paid in school year 1993-94 and each school year thereafter, local effort rate yield for the nonresident high school tuition fund of each county shall be determined by multiplying 38.6207 percent of the local effort rate by the assessed valuation from Class I districts or portions thereof in such county which have not affiliated with any high school district and which are not part of a Class VI district for the school year in which the aid is to be paid.

Sec. 7. That section 79-3809, Revised Statutes Supplement, 1992, be amended to read as follows:

79-3809. Beginning in 1994, on or before March 1 of each year (1) On or before July 1 for 1994 and on or before June 1 for each year thereafter, the Department of Revenue shall compute and certify to the State Department of Education the adjusted valuation, by county, of each district for the second preceding tax year by application of an adjustment factor for each class of property in each such district so that the valuation of property for each district, for purposes of determining state aid pursuant to the Tax Equity and Educational Opportunities Support Act, shall reflect as nearly as possible taxable value as required by law state aid value as defined in subsection (2) of this section, and the Constitution of Nebraska. Establishment of the adjustment factors adjusted valuation shall be based on the best available assessment practices established by rule and regulation adopted and promulgated by the Department of Revenue. The assessment practices may include, but not be limited to, the appraisal techniques listed in section 77-112.

(2) For purposes of this section, state aid value shall mean:

(a) For real property other than agricultural land, one hundred percent of market value;

(b) For agricultural land, eighty percent of market value as provided in sections 77-1359 to 77-1367 and 77-1371;

(c) For personal property other than motor vehicles, the net book value as defined in section 77-120; and

(d) For motor vehicles, the value established pursuant to section 77-1239.

(3) For 1995 and each year thereafter, prior to July 1 any school district may file with the Department of Revenue written objections to the adjusted valuations prepared by the department, stating the reasons why such adjusted valuations are not the valuations required by subsection (2) of this section. The Tax Commissioner shall fix a time for a hearing to be held prior to August 1. Either party shall be permitted to introduce any evidence in reference thereto. Prior to September 1, the Tax Commissioner shall enter an order modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the Tax Commissioner shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written objections or at hearing. The final determination of the Tax Commissioner may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(4) For 1994, prior to August 1 any school district may file with the Department of Revenue written objections to the adjusted valuations prepared by the department, stating the reasons why such adjusted valuations are not the valuations required by subsection (2) of this section. The Tax Commissioner shall fix a time for a hearing to be held prior to August 15. Either party shall be permitted to introduce any evidence in reference thereto. Prior to September 1, the Tax Commissioner shall enter an order modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the Tax Commissioner shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written objections or at hearing. The final determination of the Tax Commissioner may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(5) The Tax Commissioner shall, on the date the adjusted valuations are certified to the State Department of Education under subsection (1) of this section, cause to be published notice of such adjusted valuations in a newspaper published or of general circulation in each county in Nebraska.

(6) No injunction shall be granted restraining the distribution of state aid based upon the adjusted valuations pursuant to this section.

Sec. 8. That section 79-3813, Revised Statutes Supplement, 1992, be

amended to read as follows:

79-3813. On or before July 1 of each year 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 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 and the department pursuant to section 79-3815.

Sec. 9. That section 79-3824, Revised Statutes Supplement, 1993, be amended to read as follows:

79-3824. (1) State aid payable pursuant to Except as otherwise provided in the Tax Equity and Educational Opportunities Support Act, state aid payable pursuant to the act for each school year shall be based upon data found in applicable reports for the most recently available complete data year. The annual financial reports of all school districts shall be submitted to the Commissioner of Education pursuant to the date prescribed in subdivision (3) of section 79-451. If a school district fails to timely submit its report, the commissioner, after notice to the district and an opportunity to be heard, shall direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act act be withheld until such time as the report is received by the department. In addition, the commissioner shall notify the county superintendent to direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county superintendent of receipt of such report. The county treasurer shall withhold such money.

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

Sec. 10. That original sections 79-3509.02, 79-3803, 79-3807 to 79-3809, and 79-3813, Revised Statutes Supplement, 1992, and sections 43-2513, 79-3806, and 79-3824, Revised Statutes Supplement, 1993, are repealed.

Sec. 11. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.