

## LEGISLATIVE BILL 662

Approved by the Governor April 24, 1985

Introduced by Hoagland, 6; V. Johnson, 8; Landis, 46;  
Lynch, 13; Goodrich, 20

AN ACT relating to schools; to amend sections 79-402.07, 79-411, 79-426.11, 79-426.23, 79-426.25, 79-426.26, 79-451, 79-498, 79-1107, and 79-12,104, Reissue Revised Statutes of Nebraska, 1943, and section 79-701, Revised Statutes Supplement, 1984; to provide that certain Class I school districts merge, affiliate, or become a part of certain other school districts; to change provisions relating to the dissolution of Class II school districts; to change provisions relating to high schools maintained by Class II school districts; to change provisions relating to the withdrawal of a Class I school district from a Class VI school district; to authorize the issuance of bonds for certain purposes; to require a vote in certain circumstances; to authorize a class action; to require the Attorney General to seek a declaratory judgment; to provide for hardship status; to limit the amount of public school system operational costs derived from taxes on real property; to impose a tax; to provide for a study; to create a committee; to provide for the payment of tuition in certain cases; to eliminate provisions relating to the transfer of land and pupils between school districts; to eliminate provisions relating to the attachment of land to another school district; to harmonize provisions; to provide operative dates; and to repeal the original sections, and also sections 79-403.01 to 79-403.04, 79-407, and 79-478 to 79-485, Reissue Revised Statutes of Nebraska, 1943, and sections 79-403 and 79-406, Revised Statutes Supplement, 1984.

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

Section 1. On or before September 1, 1989, all Class I school districts of the state that were not within a Class VI school district on September 1, 1986, or affiliated with another school district prior to March 1, 1989, shall be merged with an existing Class II, III, IV, or V school district or become part of an existing Class VI school district. Any Class II school district which becomes a Class I school district pursuant to section

79-701, or any Class I school district which withdraws from a Class VI school district pursuant to section 79-1107, after September 1, 1986, shall have until September 1, 1989, to be affiliated with another school district, merge with a Class II, III, IV, or V school district, or become part of an existing Class VI school district. Merger of such districts shall be accomplished as provided under sections 79-402 to 79-402.08 or sections 79-426.01 to 79-426.22 utilizing existing county and state committees for the reorganization of school districts and affiliation shall be accomplished as provided in sections 8 to 11 of this act. Contiguous district boundaries shall be maintained where practical within such a merger with exceptions subject to approval of the State Committee for the Reorganization of School Districts. In determining whether to approve the merger of a Class I school district with a noncontiguous district, the state committee shall consider the factors enumerated in section 5 of this act.

Sec. 2. (1) When any Class I school district subject to section 1 of this act has not merged, affiliated, or approved a plan for merging with an existing Class II, III, IV, or V school district or affiliated with or become or approved a plan to become part of an existing Class VI school district prior to March 1, 1989, the county committee for the reorganization of school districts shall plan to dissolve and attach such district to an existing Class II, III, IV, or V school district or make such district part of an existing Class VI school district on or before September 1, 1989, if such district is to be transferred within the county in which the schoolhouse or administrative office is located.

(2) When any Class I school district subject to section 1 of this act has not merged, affiliated, or approved a plan for merging with an existing Class II, III, IV, or V school district or affiliated with or become or approved a plan to become part of an existing Class VI school district prior to March 1, 1989, a joint committee, as provided in section 79-426.09, shall plan to dissolve and attach such district to an existing Class II, III, IV, or V school district or make such district part of an existing Class VI school district on or before September 1, 1989, if such district will be transferred to a county other than where the schoolhouse or administrative office is located.

(3) The procedure to be used in attaching a district under subsection (1) or (2) of this section shall be as provided in section 3 of this act.

Sec. 3. Prior to April 1, 1989, the county reorganization committee or joint reorganization committee shall set a date for a hearing to determine to which school district or districts the territory of the Class I school district should be attached or added and shall give fifteen days' notice by certified or registered

mail of the time and place of hearing to the board of education of each school district having grades kindergarten through twelve which may be affected by such merger. Public notice of the hearing shall also be given, within fifteen days prior to the hearing date, by publication once each week for two consecutive weeks in a newspaper of general circulation in the county or counties involved in the merger. Following such hearing, the county or joint county reorganization committee shall notify the county superintendent to which school district or districts such territory shall be attached or added and the county superintendents shall attach or add such territory on or before September 1, 1989.

Sec. 4. If, by July 1, 1989, the county or joint county reorganization committee has failed to plan to dissolve and attach or add any Class I school district to an existing district under section 2 of this act or gives previous notice that it will not be able to meet the requirements of sections 1 to 3 of this act, each member of the committee shall be penalized by a fine equal to the total amount reimbursed as expenses to such member for serving on the committee during the previous twelve-month period, and the matter shall be referred to the State Committee for the Reorganization of School Districts which shall attach or add the territory on or before September 1, 1989.

Sec. 5. In determining the school district or districts to which Class I school districts shall be attached or added, consideration by the county and state committees shall be given to (1) the educational needs of local communities, (2) economies in transportation and administrative costs, (3) the future use of existing satisfactory school buildings, sites, and playing fields, (4) the convenience and welfare of pupils, (5) disparities in per pupil valuation among school districts, (6) the equalization of the educational opportunity for pupils, (7) parental participation in the formal education of their children from kindergarten through twelfth grade, and (8) any other matters which, in its judgment, are of importance.

Sec. 6. Any Class I school district which is within a Class VI school district after September 1, 1989, which withdraws from the Class VI school district pursuant to section 79-1107 or which was part of a Class VI district discontinued pursuant to section 79-1106 shall be merged with an existing Class II, III, IV, or V school district. Merger of such district shall be within one year of the withdrawal or discontinuance and accomplished pursuant to sections 1 to 5 of this act.

Sec. 7. Reorganization plans and petitions established pursuant to sections 79-402, 79-402.03, 79-402.06 to 79-402.09, 79-402.11, 79-402.12, and 79-426.01 to 79-426.22 may include a proposal to submit the

question of electing members of the school board or board of education of the reorganized school district by district or ward. Upon the final approval of such reorganization plan or petition, the county clerk or election commissioner of the county which has the largest number of pupils residing in the reorganized district shall place the question on a separate ballot at the next general election according to the procedures established in Chapter 32.

If such reorganized school district will be a Class III school district, such reorganization plans and petitions may include a proposal that such reorganized school district will have a board of education of at least nine members as a Class III school district pursuant to section 79-102 and that such reorganized school district will embrace a territory having a population of more than five thousand inhabitants.

Sections 5-108, 79-464, and 79-803.11 shall govern for purposes of determining temporary membership to any board of education increased to nine members and for purposes of creating any new districts or wards necessary to implement this section.

Sec. 8. Any Class I school district which is not part of a Class VI school district on the operative date of this section may, prior to March 1, 1989, become affiliated with an adjoining Class II, III, IV, or V school district as prescribed in sections 8 to 11 of this act. The voters in the Class I school district shall by a majority vote decide whether to be an affiliated school district and shall select the Class II, III, IV, or V school district to which the Class I school district shall be affiliated.

Prior to the affiliation of a Class I school district with an adjoining Class II, III, IV, or V school district, the plan of affiliation shall first be approved by the school board of the Class II, III, IV, or V school district to which an affiliation plan has been proposed. Following the approval by such school board, the plan of affiliation shall be submitted at a special election to all the electors of the school districts involved. Notice of the election shall be given by the county clerk or election commissioner and shall be published in a legal newspaper of general circulation in the county or counties involved at least ten days prior to the election. The notice shall state that the election has been called for the purpose of affording the electors an opportunity to approve or reject the plan of affiliation.

All ballots shall be prepared and the special election shall be held and conducted by the county clerk or election commissioner, and the expense of such election shall be paid by the Class I school district. The county clerk or election commissioner shall use the duly appointed election board or appoint two judges and two clerks who shall be qualified electors of the territory of

the proposed school district. The election shall be held at a place or places within the proposed district which shall have been determined by the county clerk or election commissioner to be convenient for the voters.

When the proposed plan of affiliation involves school districts under the jurisdiction of more than one county, the county clerk or election commissioner of the county which has the largest number of residents shall give the notice and prepare the ballots. The election shall be held and conducted by the county clerk or election commissioner of each county involved in the plan of affiliation. Approval of the plan of affiliation shall require a majority of all electors voting.

A Class I school district which is affiliated with another school district shall support the high school in such district by a tax levy as prescribed in sections 8 to 11 of this act. Transportation shall be provided for high school students attending school from an affiliated Class I school district.

Sec. 9. A proposal to affiliate a Class I school district with a Class II, III, IV, or V school district may be initiated by filing a petition or petitions signed by at least twenty-five per cent of the legal voters of the district with the county superintendent of the county in which the greater part of the Class I school district is located together with an affidavit listing all legal voters of the school district. Upon determination by him or her that the signatures are sufficient, the county superintendent shall transmit the petition to the school board of the Class I school district which may have the issue placed on the ballot at the next primary or general election or may call a special election to vote on the issue. The petition shall specify the school district to which the Class I school district is to be affiliated.

Sec. 10. Any Class II, III, IV, or V school district to which a Class I school district elects to become affiliated pursuant to sections 8 to 11 of this act shall annually separate the budget of the school district into two portions. One portion shall be the high school portion and shall include the costs attributable to providing an education for children in grades nine through twelve, including student transportation costs, and the other portion shall include the balance of the budget. The separation of the high school portion of the budget shall be done in the manner and pursuant to the guidelines which the State Department of Education shall, by rules and regulations, establish.

Following any affiliation pursuant to sections 8 to 11 of this act, bonds may be issued pursuant to sections 10-701 to 10-716, for purposes of capital additions or improvements to facilities used for the instructional program for grades nine through twelve or grades seven through twelve, upon the approval of a majority of all the

qualified electors voting on the issue in the Class II, III, IV, or V school district and all affiliated Class I school districts.

Sec. 11. (1) The county clerk of any county in which all or part of an affiliated Class I school district is located shall, on or before July 15 of each year, certify the actual valuation of all taxable property of such Class I school district within the county to the county clerk of the county in which the high school of the school district with which the Class I school district is affiliated is located.

(2) The county board of the county in which the high school is located shall make a separate levy for the high school portion of the school district's budget. Such levy shall be upon the taxable property in both the Class II, III, IV, or V school district and the affiliated Class I school district. The county clerk of the levying county shall certify the levy on or before September 1 in each year to the county clerk of each county in which a portion of the affiliated Class I school district is located. Such levy shall be collected in the same manner as other property taxes and shall be remitted by the collecting county to the county in which the high school is located.

Sec. 12. Notwithstanding any other provision of sections 1 to 6 of this act or Chapter 79, after the operative date of this section, whenever the question of closing an elementary school attendance site is raised following a reorganization governed by section 79-402, the Reorganization of School Districts Act, or sections 79-426.23 to 79-426.26 in which a school district has attached itself as a whole to a Class II, III, IV, or V school district or has become part of a Class VI school district, such elementary school attendance site shall not be closed unless a majority of the qualified electors who, on the date of the election provided for in this section, reside within the boundaries of such school district, as it existed prior to reorganization, vote pursuant to section 13 of this act to close such site. Approval of a proposition to close an elementary school attendance site shall require a majority of all qualified electors voting at a special election called for such purpose.

If such school district divides and the various portions join more than one school district pursuant to this act, such elementary school attendance site shall not be closed unless a majority of the voters who, on the date of the election provided for in this section, reside in the portion of such school district, as the boundaries of such district existed prior to the reorganization, which contains such elementary school attendance site vote to close such site.

For purposes of this section, elementary school attendance site shall mean an elementary school site in a school district which has been required to merge with or

become a part of another school district pursuant to section 1 of this act or section 79-701.

Sec. 13. (1) The election prescribed in section 12 of this act shall be called by the school board of the reorganized school district by resolution or upon a petition by twenty per cent of the voters residing in the school district as the school district existed prior to reorganization and shall be conducted in accordance with subsections (2) to (4) of this section.

(2) Notice of the election shall be given by the county clerk or election commissioner and shall be published in a legal newspaper or newspapers of general circulation in the county at least ten days prior to the election. The election notice shall (a) state that the election has been called for the purpose of affording the electors an opportunity to approve or reject the resolution or petition to close the elementary school attendance site and (b) contain the legal description of the attendance site.

(3) All ballots shall be prepared and the election shall be held and conducted by the county clerk or election commissioner and the expense of such election shall be paid by the county board. The county clerk or election commissioner shall use the duly appointed election board or appoint two judges and two clerks who shall be qualified electors of the territory of the school district as the school districts existed prior to reorganization. The election shall be held at a place or places within such school district which shall have been determined by the county clerk or election commissioner to be convenient for the voters.

(4) When the elementary school attendance site which is proposed to be closed involves a school district under the jurisdiction of more than one county, the county clerk or election commissioner of the county which has the largest number of pupils residing in such district shall give the notice required by subsection (2) of this section in a newspaper of general circulation in the territory of such district and prepare the ballots, and such election shall be held and conducted by the county clerk or election commissioner of each county in such district in accordance with Chapter 32. Each county board shall bear a share of the total election expense in the same proportion that the number of electors residing in such district in one county stands to the whole number of electors in such district.

Sec. 14. The Attorney General shall file a petition under section 25-21,149 seeking a declaratory judgment from the Nebraska Supreme Court on the constitutionality of the election provisions in section 12 of this act.

Sec. 15. Following a reorganization governed by section 79-402, the Reorganization of School Districts Act, or sections 79-426.23 to 79-426.26 in which a school

district has attached itself as a whole to a Class II, III, IV, or V school district or has become part of a Class VI school district, a class action may be filed against the school board of such Class II, III, IV, V, or VI school district in district court if an elector in the school district of an elementary school attendance site, as such district existed prior to reorganization, has reason to believe that the school board in charge of such site is neglecting to provide reasonable educational opportunities or is neglecting to maintain the building site properly. If neglect is found, the court shall determine how such conditions at such site shall be improved.

Sec. 16. A family whose children attend a Class I school district which has merged, affiliated, or approved a plan for merging or affiliating with an existing Class II, III, IV, or V school district may submit a request in writing to the county committee for the reorganization of school districts for hardship status. The county committee shall consider such request and may recommend the approval or disapproval of such request and submit the request and its recommendation to the State Committee for the Reorganization of School Districts for final approval. The county committee shall include in its recommendation the school district to which it believes such children should be assigned. When considering whether to recommend the approval or grant final approval of hardship status, the county and state committees shall consider the following factors:

(1) The age of the students of the family seeking hardship status;

(2) The distance from the family's residence to the school attendance site which the students will attend after the merger or affiliation and the estimated travel time to and from such attendance site;

(3) The road conditions over which the students will be required to travel to and from school;

(4) The availability and proximity of an alternate school district to which such students may be assigned; and

(5) Any other factors the county or state committee deems necessary.

Requests for hardship status shall be submitted at least six months prior to the beginning of the school year and shall include the information listed in subdivisions (1) to (5) of this section.

The State Committee for the Reorganization of School Districts shall establish procedures, rules, and recommendations necessary to carry out this section.

Sec. 17. The Legislature hereby recognizes and establishes that providing an adequate financing system for primary and secondary public schools of the state is ultimately a state responsibility. The Legislature



further finds that any financing system must not unduly rely upon excessive or unfair property taxes as the financing base for such education system.

Therefore, recognizing the above facts, the Legislature hereby establishes that after fiscal year 1986-87, no more than forty-five per cent of the total operational costs of the public school system shall be derived from taxes on real property and that the Legislature shall from time of passage of this legislative bill begin the process necessary to accomplish the above-stated goals.

Sec. 18. For purposes of providing the increased state revenue required due to section 17 of this act, there shall be imposed, effective January 1, 1987, a sales and use tax of one per cent in addition to the tax imposed under Chapter 77, article 27. Such tax shall be interpreted, collected, remitted, and enforced by the Tax Commissioner under the provisions of Chapter 77, article 27. Except for the proceeds derived from motor vehicles, trailers, and semitrailers, which shall be credited to the Highway Allocation Fund, all proceeds from the additional tax established by this section shall be used to provide aid to schools to insure compliance with section 17 of this act.

Sec. 19. The Legislature hereby declares that it is the intent and purpose of sections 19 to 25 of this act to provide:

(1) An examination of school financing, including, but not limited to:

(a) The heavy reliance on property tax;

(b) The decreasing valuations of agricultural land;

(c) The basis on which state aid is distributed;

(d) The potential effect of implementing the constitutional amendment authorizing agricultural and horticultural land to be taxed as a separate and distinct class of property;

(e) The use of nonresident tuition;

(f) Revenue from school lands;

(g) Equitable taxation; and

(h) Recognition of higher costs in rural areas;

(2) An examination of the quality of education provided in counties throughout the state; and

(3) A committee to propose recommendations for alleviating the inequities in the property tax burdens imposed to finance education and for addressing deficiencies in the current educational system.

Sec. 20. As used in sections 19 to 25 of this act, unless the context otherwise requires:

(1) Board shall mean the Executive Board of the Legislative Council; and

(2) Committee shall mean the Education and Taxation Advisory Committee created by section 21 of this

act.

Sec. 21. The Executive Board of the Legislative Council shall, within ten days after the operative date of this section, appoint six members of the Legislature to serve, together with the chairperson of the Committee on Education and the chairperson of the Committee on Revenue, who shall serve as cochairpersons, on a committee to be known as the Education and Taxation Advisory Committee. The board shall appoint two members of the Legislature from each of the congressional districts of this state.

Sec. 22. The committee shall serve until January 1, 1986, at which time it shall cease to exist. Any vacancy on such committee shall be filled by appointment from among the members of the Legislature in the same manner as original appointments were made, and any person named to fill a vacancy shall have the same qualifications as his or her immediate predecessor.

Sec. 23. The committee shall hold at least two meetings each calendar quarter at a time and place fixed by the committee. Special meetings may be called by the cochairpersons. Such special meetings shall be called by the cochairpersons upon receipt of a written request signed by three or more members of the committee. A majority of the members of the committee shall constitute a quorum.

Sec. 24. The committee shall:

(1) Study existing laws and practices affecting the public educational system;

(2) Study financing alternatives for public education;

(3) Propose recommendations for providing quality education financed equitably, taking into account the diverse needs of the state, and conduct a public hearing on such recommendations on or before December 21, 1985; and

(4) Present to the Legislature on or before January 1, 1986, the committee's recommendations for alleviating the inequities in the property tax burdens imposed to finance education and for addressing deficiencies in the current educational system.

Sec. 25. In performing its duties, the committee shall:

(1) Periodically meet and confer with officials of the state and its political subdivisions having responsibility for education services;

(2) Consult with and utilize the services of any office, department, or agency of the state; and

(3) Employ such personnel as may be necessary to assist it in the performance of its duties.

Sec. 26. That section 79-402.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-402.07. When a new district is to be created

from other districts as provided in section 79-402, the petition shall contain: (1) A description of the proposed boundaries of the reorganized districts; (2) a summary of the terms on which reorganization is to be made between the reorganized districts; and such terms may include a provision for initial school board districts or wards within the proposed district for the appointment of the first board of education and also for the first election as provided in section 79-426.19; such proposed initial school board districts or wards to be determined by the county committee taking into consideration population and valuation; and a determination of the term of the board members first appointed to membership of the board of the newly reorganized district; (3) a map showing the boundaries of established school districts and the boundaries proposed under any plan or plans of reorganization; and (4) such other matters as the petitioners shall determine proper to be included. Any petition for the creation of a new Class VI school district shall designate whether such district shall include high school grades only or grades seven through twelve. The petition may contain provisions for the holding of school within existing buildings in the newly reorganized district and that a school constituted under the provisions of this section shall be maintained from the date of reorganization unless the legal voters served by the school vote by a majority vote for discontinuance of the school.

Sec. 27. That section 79-411, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-411. The notice specified in section 79-410 shall also be given by one publication in a legal newspaper of general circulation in each district and by posting a notice on the outer door of the schoolhouse in each district affected thereby. in the same manner as provided by section 79-409 for transferring land from one district to another.

Sec. 28. That section 79-426.11, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-426.11. After public hearing or hearings have been held, the county committee or special committee may prepare and approve a plan or plans of reorganization of any or all school districts within the county and under its jurisdiction. Such plan shall contain: (1) A description of the proposed boundaries of the reorganized districts; (2) a summary of the reasons for each proposed change, realignment, or adjustment of the boundaries; PROVIDED, that (3) if such plan shall provide for the creation of a new Class VI school district, it shall designate a designation of whether such district shall include high school grades only or be known as a Class VI junior-senior high school district as described in section

79-1109; ~~(3)~~ (4) a summary of the terms on which reorganization is to be made between the reorganized districts; and such terms shall include a provision for initial school board districts or wards within the proposed district; such proposed initial school board districts or wards to be determined by the county committee taking into consideration population and valuation; and a determination of the term of the board members first appointed to membership on the board of the newly reorganized district; ~~(4)~~ (5) a statement of the findings with respect to the location of schools, the utilization of existing buildings, the construction of new buildings, and the transportation requirements under the proposed plan of reorganization; PROVIDED; that the plan may contain provisions for the holding of school within existing buildings in the newly reorganized district and that a school constituted under the provisions of this section shall be maintained from the date of reorganization unless the legal voters served by the school vote by a majority vote for discontinuance of the school; ~~(5)~~ (6) a map showing the boundaries of established school districts and the boundaries proposed under any plan or plans of reorganization; and ~~(6)~~ (7) such other matters as the county committee shall determine proper to be included.

Sec. 29. That section 79-426.23, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-426.23. A proposal to dissolve a Class I or II school district; except a Class I school district which is partly or wholly within a Class VI school district; and attach it to one or more existing Class II, III, IV, or V school districts or make it part of an existing Class VI school district may be initiated by filing a petition or petitions signed by at least twenty-five per cent of the legal voters of the district with the county superintendent of the county in which the greater part of any such district is located together with an affidavit listing all legal voters of the district. Upon determination by him or her that the signatures are sufficient, which determination shall not be subject to review at the hearing held under the provisions of section 79-426.26, the county superintendent shall transmit the petition to the county committee for the reorganization of school districts which has jurisdiction over the district. The petition shall contain a plan of the proposed reorganization, an effective date, and a statement whether any existing bonded indebtedness shall remain on the property of the district which incurred it or be assumed by the enlarged district. The petition may also contain provisions for the holding of school within existing buildings in the proposed reorganized district and when so provided the holding of school within such buildings shall be maintained from the date of reorganization unless

either the legal voters served by the school or the school board or board of education of the reorganized district votes by a majority vote for discontinuance of the school. In 7, PROVIDED, in case of conflicting votes between the legal voters and the school board or board of education on such issue, the decision of the legal voters shall prevail. A signing petitioner shall not be permitted to withdraw his or her name therefrom after the petition has been filed. The school board or board of education of each Class II, III, IV, or V school district to which the merger is proposed or of the Class VI school district to which an addition is proposed shall also submit to the county committee a statement to the effect that a majority of the board members approve the proposal contained in the petition. The county committee shall, within forty days, review and approve or disapprove such proposal and submit it to the State Committee for the Reorganization of School Districts.

Sec. 30. That section 79-426.25, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-426.25. If the proposal provided for in section 79-426.23 has been approved by the county committee or the state committee, or both, the county superintendent shall, within ten days after receipt of the petition from the county committee, so notify the school board of the Class ~~II~~ or II school district and the school board shall, within fifteen days, set a date for a special election for the purpose of submitting the proposal to the legal voters of the district. At least twenty days' notice of such election shall be given by publication twice in a newspaper of general circulation in the district, the latest publication to be not more than one week before the election. If there ~~is~~ be no such newspaper, notice shall be given by posting it on the door of the schoolhouse and at least four other public places throughout the district. The proposal shall not be submitted to a special election more than once in any calendar year. Legal voters may cast their ballots, written or printed, between the hours of 12:00 noon and 8:00 p.m. on the date of such election. The county clerk or election commissioner of the county which has the largest number of pupils residing in the district shall conduct such special election in accordance with ~~the provisions of~~ Chapter 32, and shall record the names and residence of persons voting. ~~thereat.~~ The ballots shall be canvassed as provided in section 79-426.15.

Sec. 31. That section 79-426.26, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-426.26. If the proposal is approved by a majority of the legal voters of the district voting on the matter, the secretary of the school board shall, within five days, so certify to the county superintendent. The

county superintendent shall immediately notify the secretary of each Class II, III, IV, ~~or~~ V, or VI school district affected of the action taken by the Class ~~or~~ II school district and such secretary shall, within ten days, certify to the county superintendent that the school board or board of education of the Class II, III, IV, ~~or~~ V, or VI school district has, by a majority vote, officially approved the proposal as provided in section 79-426.23. The county superintendent shall, within fifteen days, give notice of a public hearing in regard to the proposal. Notice shall be by publication in a newspaper of general circulation in the area affected, and shall be given ten days before the date of the hearing. After the hearing, upon determination that all of the requirements of the ~~provisions~~ provisions of sections 79-426.23 to 79-426.26 have been complied with, and within ten days after the public hearing, the county superintendent shall issue an order effecting the changes in school district boundaries in accordance with the proposal provided in section 79-426.23. He ~~or she~~ shall also file certificates with the county assessor, county clerk, and county treasurer showing the changes. If the Class II, III, IV, ~~or~~ V, or VI school district is in a county other than the one having jurisdiction over the Class ~~or~~ II school district, the public hearing shall be held and conducted by the county superintendents involved and they shall jointly issue the order for changes in school district boundaries. An appeal may be taken from such order within twenty days of the rendition thereof in the same manner as appeals are taken from the action of the county board in allowing or disallowing claims against the county. Such appeal shall be filed in the district court for the county whose superintendent has jurisdiction of the Class ~~or~~ II school district. When more than one county superintendent has jurisdiction of the Class ~~or~~ II school district, the appeal may be filed in the district court for either of the counties.

Sec. 32. That section 79-451, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-451. The secretary shall, on or before July 20 in all classes of school districts, deliver to the county superintendent, to be filed in his ~~or her~~ office, a report under oath showing the whole number of children belonging to the district between the ages of five and twenty-one years according to the census taken aforesaid. Such report shall identify the number of boys and the number of girls in each of the respective age categories. Each Class I school district which is part of a Class VI school district offering instruction (a) in grades kindergarten through six shall report those children who are five through eleven years old, and (b) in grades kindergarten through eight shall report those children who are five through thirteen years old. Each Class VI school

district offering instruction (c) in grades seven through twelve shall report those children who are twelve through eighteen years old; and (d) in grades nine through twelve those children who are fourteen through eighteen years old. ~~Each Class I district which is not a part of a Class VI district shall report those children who are five through twenty-one years old.~~ Any district board or board of education of any such district neglecting to take the enumeration and make return of the same shall be liable to the district for all school money which such district may lose by such neglect. The secretary shall also on or before July 15 in all districts deliver to the county superintendent, to be filed in his or her office, a report under oath described as an end-of-the-school-year annual statistical summary and on or before October 1 in Class I and II school districts, and on or before November 1, in Class III, IV, V, and VI school districts, deliver to the county superintendent, to be filed in his or her office, a report under oath described as the annual financial report showing (1) the number attending school during the year under five and also the number over twenty-one years of age, (2) the whole number that have attended school during the year, (3) the whole number in the district between the ages of seven and sixteen years, inclusive, (4) the length of time the school has been taught during the year by a qualified teacher, the length of time taught by each teacher, and the wages paid to each, (5) the total number of days all pupils between the ages of five and twenty-one years have attended school during the year, (6) the amount of money received from the county treasurer during the year and the amount of money expended by the district during the year, (7) the rate of tax levied for all school purposes, (8) the amount of bonded indebtedness, and (9) such other facts and statistics as the Commissioner of Education shall direct.

Sec. 33. That section 79-498, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-498. To be entitled under section 79-494 to nonresident public school education in the tenth, eleventh, or twelfth grade of any public school district maintaining such grade, a pupil must have a certificate signed by the county superintendent of the proper county that he or she has completed the course of study for the preceding grade, and that he is unable to secure instruction in the next advanced grade in the public school district of his or her residence, except ~~PROVIDED~~, that when a school district is annexed to or merged with another district, the board of education of the annexing district may pay the tuition in the amount provided for by section 79-4,102 of students who at the time of such annexation are attending high school in a district other than such annexing district, for such time as may be necessary to complete the prescribed high school course for graduation

in such other district. When a school district is merged with another district pursuant to section 1 or 6 of this act or section 79-701, the school district with which such school district merges shall pay the tuition in the amount provided in section 79-4, 102 of students who at the time of such merger are enrolled in high school grades as defined in section 79-101 and are attending high school in another district for such time as may be necessary to complete the prescribed high school course for graduation in such other school district.

Sec. 34. That section 79-701, Revised Statutes Supplement, 1984, be amended to read as follows:

79-701. (1) A Class II school district shall be created whenever a Class I school district determines by a majority vote of the electors to establish a high school.

(2) The members of the school board serving when it is decided to establish a high school shall continue in office until the first Tuesday in June following the next statewide primary election at which election a six-member board shall be elected. The three receiving the highest number of votes shall be elected for a term of four years and the three receiving the next highest number of votes shall be elected for a term of two years.

(3) ~~if a Class II district, by a vote of fifty-five per cent of the legal voters voting at an annual or special meeting, decides to discontinue the high school and elect the same, the district shall thereupon become a Class I district on the date designated by such voters. At such meeting a decision shall be made as to when the new board of education shall be elected and whether the board shall consist of three members or six members. No new Class I district shall establish a six-member board unless the district contains a minimum of one hundred fifty children between five and twenty-one years of age pursuant to section 79-601. The board of education of the existing Class II district shall remain in office until the effective date for the formation of the new Class I district.~~

If the new board of education is to consist of three members, such members shall be elected at the time the electors vote to change from a Class II district to a Class I district or at any annual or special meeting held not less than thirty days prior to the effective date of the change from a Class II district to a Class I district. At the annual or special meeting, a treasurer shall be elected for a term of one year, a secretary for a term of two years, and a president for a term of three years and regularly thereafter their successors shall be elected for the term of three years each and all officers so elected shall hold their offices until their successors are elected and qualified. After such change becomes effective, the district and its officers shall have the powers and be governed by the provisions of law applicable



to Class I school districts-

If the new board of education is to consist of six members, such members shall be elected after school district electors have voted to change from a Class II district to a Class I district. The procedure for electing board members shall be as prescribed in subsection (3) of section 79-601, except that such election may be held at any annual meeting or at a special meeting called for the purpose of electing school district officers.

(3) (4) No school district may change from Class I to Class II unless that district has an enrollment of not less than one hundred pupils in grades nine to twelve. This subsection shall not apply to any district located on an Indian reservation and substantially or totally financed by the federal government.

(5) If for three consecutive years the average daily membership of an existing Class II district is less than twenty-five pupils in grades nine through twelve or after July 10, 1984, if for one year an existing Class II district contracts with a neighboring district or districts to provide educational services for all of its pupils in grades nine through twelve, such district shall, except as provided in subsection (6) of this section, become a Class I district through the order of the county superintendent if the high school is within fifteen miles on a reasonably improved highway of another high school. This subsection shall not apply to any district located on an Indian reservation and substantially or totally financed by the federal government.

(4) (6) Any Class II school district maintaining a four-year high school which has an average daily membership of less than twenty-five students in grades nine through twelve for three consecutive years and which is within fifteen miles, on a reasonably improved highway, of another high school, except a school district located on an Indian reservation and substantially or totally financed by the federal government, shall be dissolved and attached to an existing Class II, III, IV, or V school district or be made a part of an existing Class VI school district within one year of such three-year period pursuant to sections 1 to 5 of this act or may contract with another district to provide educational services for its pupils in grades nine through twelve. Such contract may continue for a period not to exceed three years. At the end of such three-year period the district may resume educational services for grades nine through twelve if the projected enrollment average daily membership in grades nine through twelve for such district has reached at least fifty students. 7 except that after July 10, 1984, a Class II district may contract pursuant to this subsection for a period of only one year and at the end of such one-year period the district may resume educational services for grades nine through twelve if the average daily membership

~~in grades nine through twelve for such district has reached at least fifty students. If the district has not achieved such average daily membership, it shall become a Class I district as prescribed in subsection (5) of this section be dissolved by the county superintendent.~~

Sec. 35. That section 79-1107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1107. ~~if Subject to section 6 of this act, if the high school in a rural high school Class VI school district is disapproved by the State Board of Education and the legal voters fail to vote to discontinue the high school in that district, the legal voters of any Class I school district in the rural high school Class VI school district may vote at an annual or special meeting to withdraw from the rural high school Class VI school district and if fifty-five per cent of the legal voters of said such Class I school district vote to withdraw from said rural high school such Class VI school district, the county superintendent shall order the Class I school district withdrawn from said rural high school such Class VI school district.~~

Sec. 36. That section 79-12,104, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-12,104. As used in sections 79-12,104 to 79-12,106, unless the context otherwise requires, reorganized school district shall mean any expanded or altered school district, organized or altered by any of the means provided by Nebraska law, including, but not limited to, the methods provided by section 79-402, ~~79-403, 79-407, 79-426.02, or 79-801.~~

Sec. 37. Sections 1 to 5, 7 to 13, 15 to 18, 26 to 28, 33, 36, and 38 of this act shall become operative on July 31, 1986. Sections 6, 29 to 32, 34, 35, and 39 of this act shall become operative September 1, 1989. The remaining sections shall become operative on their effective date.

Sec. 38. That original sections 79-402.07, 79-411, 79-426.11, 79-498, and 79-12,104, Reissue Revised Statutes of Nebraska, 1943, and also sections 79-403.01 to 79-403.04, 79-407, and 79-478 to 79-485, Reissue Revised Statutes of Nebraska, 1943, and sections 79-403 and 79-406, Revised Statutes Supplement, 1984, are repealed.

Sec. 39. That original sections 79-426.23, 79-426.25, 79-426.26, 79-451, and 79-1107, Reissue Revised Statutes of Nebraska, 1943, and section 79-701, Revised Statutes Supplement, 1984, are repealed.