

LEGISLATIVE BILL 719

Approved by the Governor April 17, 1992

Introduced by Withem, 14; Lamb, 43

AN ACT relating to schools and school districts; to amend sections 79-402, 79-3806, and 79-3807, Revised Statutes Supplement, 1991, and section 79-3819, Revised Statutes Supplement, 1991, as amended by section 205, Legislative Bill 1063, Ninety-second Legislature, Second Session, 1992; to change a provision relating to changing boundaries of school districts; to change provisions relating to equalization aid and the computation of total formula need; to change provisions relating to limitations on the budgets of school districts; and to repeal the original sections.

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

Section 1. That section 79-402, Revised Statutes Supplement, 1991, be amended to read as follows:

79-402. (1) The county superintendent shall create a new school district from other districts, change the boundaries of any district, or affiliate a Class I district or portion thereof with one or more existing Class II, III, IV, or V districts upon receipt of petitions signed by sixty percent of the legal voters of each district affected, except that petitions shall contain signatures of at least sixty-five percent of the legal voters of each district affected if the proposed change has been disapproved by both the state and county committees for school district reorganization or, in the case of affiliation, if the petition has been disapproved by the county committee pursuant to sections 79-402.14 and 79-402.15. When area is added to a Class VI district or when a Class I district which is entirely or partially within a Class VI district is taken from the Class VI district, the Class VI district shall be deemed to be an affected district.

(2) Petitions proposing to change the boundaries of existing school districts through the transfer of a parcel of land, not to exceed six hundred forty acres, may be acted upon and so transferred by order of the county superintendent when the petitions involve the transfer of land between Class I, II, III,

IV, or V school districts or when there would be an exchange of parcels of land between Class I, II, III, IV, or V school districts if the petitions have the approval of at least sixty-five percent of each school board or board of education. Petitions proposing to change the boundaries of existing school districts through the transfer of a parcel of land, not to exceed six hundred forty acres, may be acted upon and so transferred by order of the county superintendent when the petitions involve the transfer of a parcel of land from a Class I or a Class II school district to a school district of a higher classification if the petition has the approval of sixty-five percent of the legal voters or the board of education of each affected school district as set forth in this section or section 79-402-03-

(3)(a) Petitions proposing to create a new school district, to change the boundary lines of existing school districts, to create an affiliated school system, or to affiliate a Class I district in part and to join such district in part with a Class VI district, any of which involves the transfer of more than six hundred forty acres, shall, when signed by at least sixty percent of the legal voters in each district affected, be submitted to the county committee for school district reorganization. In the case of a petition for affiliation or a petition to affiliate in part and in part to join a Class VI district, the county committee shall review the proposed affiliation subject to sections 79-402.14 and 79-402.15. The county committee shall, within forty days, review and approve or disapprove such proposal and submit it to the state committee for school district reorganization, except that an affiliation petition or a petition to affiliate in part and in part to join a Class VI district shall not be submitted to the state committee and the county committee's approval or disapproval shall be final.

(b) The state committee shall, within forty days, review and approve or disapprove the proposal and return it with any recommendations deemed advisable to the county committee. The county committee shall, within fifteen days of receipt of the returned proposal, consider the action of the state committee and determine whether to give final approval or disapproval to the proposal.

(c) The county committee shall, within fifteen days of receipt of the returned proposal or of the committee's final approval or disapproval of an affiliation petition or a petition to affiliate in part

and in part to join a Class VI district, advertise and hold a public hearing at which the recommendations and action of the state and county committees are presented to the legal voters in attendance. The county committee shall hold the petitions for ten days following the hearing at the end of which time the committee shall file the petitions with the county superintendent.

(d) The county superintendent shall, within fifteen days, advertise and hold a hearing to determine the validity and sufficiency of the petitions. Upon determination, as a result of the hearing, that sufficient valid signatures are contained in the respective petitions, the county superintendent shall proceed to effect the changes in district boundary lines as set forth in the petitions.

(4) Any person adversely affected by the changes made by the county superintendent may appeal to the district court of any county in which the real estate or any part thereof involved in the dispute is located. If the real estate is located in more than one county, the court in which an appeal is first perfected shall obtain jurisdiction to the exclusion of any subsequent appeal.

(5) A signing petitioner shall be permitted to withdraw his or her name therefrom and a legal voter shall be permitted to add his or her name thereto at any time prior to the end of the ten-day period when the county committee files such petitions with the county superintendent. Additions and withdrawals of signatures shall be by notarized affidavit filed with the county superintendent.

Sec. 2. That section 79-3806, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3806. (1) Except as provided in subsections (2) through (6) of this section, each district shall receive equalization aid in the amount that the total formula need of each such district, as determined pursuant to subsection (4) of this section and sections 79-3805 and 79-3807, exceeds its total formula resources as determined pursuant to subsection (4) of this section and sections 79-3808 to 79-3811.

(2) A district shall not receive state aid for each of the school years ~~1990-91, 1991-92, and 1992-93~~ 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 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.

(5) 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 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 district's tiered cost per student, whichever is less.

(6) 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. 3. That section 79-3807, Revised Statutes Supplement, 1991, be amended to read as follows:

79-3807. (1) Except as provided in subsection subsections (2) and (3) of this section, utilizing 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, 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. 4. That section 79-3819, Revised Statutes Supplement, 1991, as amended by section 205, Legislative Bill 1063, Ninety-second Legislature, Second Session, 1992, be amended to read as follows:

79-3819. (1) A district may exceed its applicable allowable growth rate by a specific dollar amount in the situations described in this section.

(2) (1) A district demonstrates to the satisfaction of the state board that a new program is required by state or federal law or an existing program mandated by state or federal law has been expanded as a result of changes in such state or federal law. For purposes of this subsection, a final order of a court from which no appeal is taken which requires reimbursement by a district of property taxes to a taxpayer shall be considered a new program required by state or federal law but shall not be included as part of the general fund budget of expenditures for purposes of section 79-3814.

(3) (2) The district projects an increase in formula students in the district over the current school year greater than twenty-five students or greater than those listed in the schedule provided in this subsection, whichever is less. Districts shall project increases in formula students on forms prescribed by the department. The state board shall approve, deny, or modify the projected increases.

Average daily membership of district	Projected increase of formula student by percentage
0 - 50	10
50.01 - 250	5
250.01 - 1,000	3
1,000.01 and over	1

The department shall compute the district's estimated allowable budget per pupil using the budgeted general fund expenditures found on the budget statement for the current school year divided by the number of formula students in the current school year and multiplied by the district's applicable allowable growth

rate. The resulting allowable budget per pupil shall be multiplied by the projected formula students to arrive at the estimated budget needs for the ensuing year. The department shall allow the district to increase its general fund budget of expenditures for the ensuing school year by the amount necessary to fund the estimated budget needs of the district as computed pursuant to this subsection. On or before July 1 of each year, the department shall make needed revisions in the applicable allowable growth rate of districts which have been allowed additional growth pursuant to this subsection to reflect the actual formula students of such district and shall certify such revisions to each district.

(4) (3) Construction, expansion, or alteration of district buildings will cause an increase in building operation and maintenance costs of at least five percent. The department shall document the projected increase in building operation and maintenance costs and may allow a district to exceed its applicable allowable growth percentage by the amount necessary to fund such increased costs. The department shall compute the actual increased costs for the school year and shall, if needed, modify the district's applicable allowable growth rate for the ensuing school year.

(5) A district demonstrates to the satisfaction of the state board that as a result of an order entered into by the Commission of Industrial Relations pursuant to section 48-818 establishing rates of pay, benefits, and other terms and conditions of employment, the district will exceed its applicable allowable growth rate. The department shall compute the amount by which the increase in employee costs exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund budget of expenditures by such amount.

(6) A district demonstrates to the satisfaction of the state board that it will exceed its applicable allowable growth rate as a result of a contested, but settled, contract dispute, claim, or breach or uninsured risk or as a result of any final judgment of any court of competent jurisdiction, requiring or obligating the district to pay such judgment. The department shall compute the amount by which the increased cost of the settlement or judgment exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund budget of expenditures by such amount.

Sec. 5. That original sections 79-402,

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79-3806, and 79-3807, Revised Statutes Supplement, 1991, and section 79-3819, Revised Statutes Supplement, 1991, as amended by section 205, Legislative Bill 1063, Ninety-second Legislature, Second Session, 1992, are repealed.