

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 30**

Introduced By: Hudkins, 21; Fischer, 43;  
Read first time: January 4, 2007  
Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend section 32-1206, Reissue  
2 Revised Statutes of Nebraska, and sections 79-403, 79-415,  
3 and 79-479, Revised Statutes Cumulative Supplement, 2006, as  
4 affected by Referendum 2006, No. 422; to provide for  
5 reorganization of certain school districts as prescribed; to  
6 provide for operating councils; to prohibit closing  
7 elementary attendance centers as prescribed; to harmonize  
8 provisions; to provide a duty for the Revisor of Statutes;  
9 to provide severability; to repeal the original sections;  
10 and to declare an emergency.

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

1           Section 1. On the effective date of this act, the Class I  
2 and Class VI school districts which were organized as such immediately  
3 before December 1, 2005, shall be reorganized according to the  
4 boundaries on file with the State Department of Education on November  
5 30, 2005.

6           Sec. 2. The school board or board of education of each  
7 school district reorganized pursuant to section 1 of this act shall  
8 consist of the persons who were serving in that capacity on November  
9 30, 2005. If any member is unable to serve due to death, illness, or  
10 change of residence, the remaining members shall appoint a legal  
11 voter of the school district to fill the vacancy on such board.  
12 Members of the school boards or boards of education serving pursuant  
13 to this section shall serve terms of two years and until their  
14 successors are elected and qualified.

15           Sec. 3. (1) No later than two months after reorganization  
16 of such districts pursuant to section 1 of this act, the school board  
17 or board of education of each such district shall hold a special  
18 election on the question of whether the district should remain  
19 organized as a Class I or Class VI district, as the case may be. The  
20 provisions of the Election Act governing special elections shall  
21 govern a special election held under this section, except that the  
22 State Department of Education shall prepare the ballots for and pay  
23 all costs of such special election. Only the legal voters of the  
24 district shall be eligible to vote in a special election under this  
25 section.

26           Sec. 4. (1) If a majority of those voting in the special  
27 election pursuant to section 3 of this act vote to remain organized as

1 a Class I or Class VI school district, as the case may be, the  
2 property, assets, and liabilities of the district as they existed on  
3 November 30, 2005, shall be returned to the Class I or Class VI  
4 district by the school district or districts to which such property,  
5 assets, and liabilities were assigned by order of the State Committee  
6 for the Reorganization of School Districts on December 1, 2005,  
7 pursuant to section 79-4,114 as such section existed on December 1,  
8 2005. Any teachers, administrators, or staff employed by the  
9 reorganized Class I or Class VI school district shall have first  
10 opportunity for re-employment with the reorganized district at the  
11 salary such teacher, administrator, or staff member was earning on  
12 November 30, 2005.

13 (2) Such districts shall be eligible for state aid pursuant  
14 to the Tax Equity and Educational Opportunities Support Act based upon  
15 the average daily membership of such district of the most recently  
16 available complete data year on November 30, 2005.

17 Sec. 5. If a majority of those voting in the special  
18 election held pursuant to section 3 of this act vote to dissolve the  
19 reorganized school district, the district shall be dissolved and its  
20 property, assets, and liabilities distributed in the same manner as  
21 provided in the orders issued by the State Committee for the  
22 Reorganization of School Districts on December 1, 2005, pursuant to  
23 section 79-4,114 as such section existed on December 1, 2005.

24 Sec. 6. Any elementary attendance center may be designated  
25 as a community school through the formation of an operating council.  
26 If the school board of a Class II, III, IV, or V school district  
27 receives a request for an elementary attendance center to be

1 designated as a community school, the school board shall hold an  
2 operating council organizational meeting at such elementary  
3 attendance center within sixty days after receiving the request,  
4 except that the school board shall not be required to hold  
5 organizational meetings at any one elementary attendance center more  
6 than once during a calendar year.

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

13 Operating councils shall be advisory to the superintendent,  
14 the school board, and the principal of the community school on all  
15 matters affecting the community school. Operating councils shall  
16 propose and submit a budget for the community school to the school  
17 board, and one or more members of the operating council shall  
18 interview and recommend staff for the community school. The  
19 superintendent of any school district containing at least one  
20 community school shall provide each operating council with a copy of  
21 public information provided by the school district staff to the  
22 school board regarding the budget and staffing decisions for the  
23 community school and proposed policy changes affecting the community  
24 school. The principal of a community school shall provide an  
25 opportunity for the operating council to meet with the principal not  
26 less than once each month.

27 Sec. 7. (1) The school board of any Class II, III, IV, or V

1 school district shall not take action to close an elementary  
2 attendance center or to change the elementary grades offered at an  
3 elementary attendance center if:

4 (a) The closing of the elementary attendance center or the  
5 changing of the elementary grades offered at such elementary  
6 attendance center would cause at least one resident elementary  
7 student to reside more than twenty miles from the nearest elementary  
8 attendance center in the district on a route that would be actually  
9 and necessarily traveled from the student's residence to such  
10 elementary attendance center; and

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

18 (2) The school board of any Class II, III, IV, or V school  
19 district shall not take action to close an elementary attendance  
20 center or to change the elementary grades offered at an elementary  
21 attendance center if:

22 (a) The fall membership of the elementary attendance center  
23 for the school year immediately preceding the first school year in  
24 which the elementary attendance center would be closed or the grades  
25 offered would be changed included at least ten students who were  
26 either resident students, students residing within the boundaries of  
27 a former Class I district that contained the elementary attendance

1 center as such boundaries existed for school year 2005-06, or  
2 students who were in the fall membership of the elementary attendance  
3 center for school year 2005-06 if the elementary attendance center  
4 was in a Class I school district at such time; and

5 (b) Either:

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

9 (ii) The elementary attendance center is at least ten miles  
10 on a route that would be actually and necessarily traveled from the  
11 closest elementary attendance center within the district for which  
12 the fall membership for the immediately preceding school year  
13 included a total number of resident elementary students that was at  
14 least ten times the number of elementary grades offered at such  
15 elementary attendance center; or

16 (iii) The elementary attendance center is the only  
17 elementary attendance center located within the boundaries of an  
18 incorporated city or village.

19 (3) The school board of any Class II, III, IV, or V school  
20 district shall not take action to close an elementary attendance  
21 center or to change the elementary grades offered at an elementary  
22 attendance center without the approval of at least seventy-five  
23 percent of the school board of the Class II, III, IV, or V school  
24 district if:

25 (a) The fall membership of the elementary attendance center  
26 for the school year immediately preceding the first school year in  
27 which the elementary attendance center would be closed or the grades

1 offered would be changed included at least ten students who were  
2 either resident students, students residing within the boundaries of  
3 a former Class I school district that contained the elementary  
4 attendance center as such boundaries existed for school year 2005-06,  
5 or students who were in the fall membership of the elementary  
6 attendance center for school year 2005-06 if the elementary  
7 attendance center was in a Class I school district at such time; and

8 (b) Either:

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

13 (ii) The elementary attendance center is at least four  
14 miles but less than ten miles, on a route that would be actually and  
15 necessarily traveled, from the closest elementary attendance center  
16 within the district for which the fall membership for the immediately  
17 preceding school year included a total number of resident elementary  
18 students that was at least ten times the number of elementary grades  
19 offered at such elementary attendance center.

20 (4) Until the completion of the school year in which a  
21 kindergarten student from school year 2005-06 would complete the  
22 highest grade offered at the elementary attendance center if such  
23 student would progress through the grades at the normal rate, the  
24 school board of any Class II, III, IV, or V school district shall not  
25 take action to close an elementary attendance center or to change the  
26 elementary grades offered at an elementary attendance center if:

27 (a) The fall membership of the elementary attendance center

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

10 (b) At least one resident student, student residing within  
11 the boundaries of a former Class I school district that contained the  
12 elementary attendance center as such boundaries existed for school  
13 year 2005-06, or student who was in the fall membership of the  
14 elementary attendance center for school year 2005-06 if the  
15 elementary attendance center was in a Class I school district at such  
16 time has registered to attend such elementary attendance center as of  
17 August 1 immediately preceding the beginning of the school year for  
18 which the elementary attendance center would be closed or the grades  
19 offered would be changed.

20 (5) Except when an elementary attendance center fails to  
21 meet the provisions of subdivision (4)(b) of this section, the school  
22 board of any Class II, III, IV, or V school district shall not take  
23 action to close an elementary attendance center or to change the  
24 elementary grades offered at an elementary attendance center unless  
25 public notice has been given that the school board is considering  
26 such action on or before January 1 of the school year preceding the  
27 first school year for which the elementary attendance center would be

1 closed or the grades offered would be changed.

2 (6) The temporary relocation of some or all of the students  
3 to an alternate elementary attendance center for a period not to  
4 exceed two years shall not constitute the closing of an elementary  
5 attendance center or a change in the grades offered at such  
6 elementary attendance center. Such alternate elementary attendance  
7 center shall not be subject to subsection (1), (2), (3), or (4) of  
8 this section. The grades offered at the alternate elementary  
9 attendance center shall include any grade for which a student could  
10 enroll and receive education at the elementary attendance center for  
11 the specified school year.

12 (7) For purposes of this section:

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

16 (b) Resident elementary student means a student who will be  
17 attending school in an elementary grade in the school year in which  
18 the elementary attendance center would otherwise be closed or the  
19 grades offered would otherwise be changed and who resides within the  
20 boundaries of the school district which contains the elementary  
21 attendance center; and

22 (c) Resident student means a student who resides within the  
23 boundaries of the school district which contains the elementary  
24 attendance center.

25 Sec. 8. Section 32-1206, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 32-1206. ~~Any~~ Except as provided in section 3 of this act,

1 any election not otherwise provided for in sections 32-1203 to  
2 32-1205 which is conducted by the election commissioner or county  
3 clerk shall be paid for by the entity holding the election.

4 Sec. 9. Section 79-403, Revised Statutes Cumulative  
5 Supplement, 2006, as affected by Referendum 2006, No. 422, is amended  
6 to read:

7 79-403. (1) Except as provided in subsections (2) and (3) of  
8 this section, no new school district shall be created unless such  
9 district provides instruction in kindergarten through grade twelve.

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

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

18 (b) The enrollment of the new Class VI school district is  
19 (i) at least one hundred twenty-five pupils if the district offers  
20 instruction in grades nine through twelve, (ii) at least one hundred  
21 seventy-five pupils if the district offers instruction in grades seven  
22 through twelve, or (iii) at least two hundred students if the district  
23 offers instruction in grades six through twelve, except that if such  
24 district will have population density of less than three persons per  
25 square mile, then the enrollment shall be at least seventy-five  
26 students if the district offers instruction in grades nine through  
27 twelve, at least one hundred students if the district offers

1 instruction in grades seven through twelve, or at least one hundred  
2 twenty-five students if the district offers instruction in grades six  
3 through twelve.

4 (3) One or more new Class I districts may be created as  
5 provided in sections 1 to 5 of this act or as a part of a  
6 reorganization petition pursuant to subsection (2) of this section.

7 Sec. 10. Section 79-415, Revised Statutes Cumulative  
8 Supplement, 2006, as affected by Referendum 2006, No. 422, is amended  
9 to read:

10 79-415. (1) In addition to the petitions of legal voters  
11 pursuant to section 79-413 and the method provided in sections 1 to 5  
12 of this act, changes in boundaries and the creation of a new school  
13 district from other districts may be initiated and accepted by the  
14 school board or board of education of any district that is not a  
15 member of a learning community.

16 (2) In addition to the petitions of legal voters pursuant to  
17 section 79-413, the affiliation of a Class I district or portion  
18 thereof with one or more Class II, III, IV, or V districts may be  
19 initiated and accepted by:

20 (a) The board of education of any Class II, III, IV, or V  
21 district; and

22 (b) The school board of any Class I district in which is  
23 located a city or incorporated village.

24 Sec. 11. Section 79-479, Revised Statutes Cumulative  
25 Supplement, 2006, as affected by Referendum 2006, No. 422, is amended  
26 to read:

27 79-479. (1)(a) Beginning January 1, 1992, any school

1 district boundaries changed by the means provided by Nebraska law, but  
2 excluding the method provided by sections 79-407 ~~and~~ 79-473 to  
3 79-475, or sections 1 to 5 of this act, shall be made only upon an  
4 order issued by the State Committee for the Reorganization of School  
5 Districts or county clerk. The state committee shall not issue an  
6 order changing boundaries relating to affiliation of school districts  
7 if twenty percent or more of any tract of land under common ownership  
8 which is proposing to affiliate is not contiguous to the high school  
9 district with which affiliation is proposed unless (i) one or more  
10 resident students of the tract of land under common ownership has  
11 attended the high school program of the high school district within  
12 the immediately preceding ten-year period or (ii) approval of the  
13 petition or plan would allow siblings of such resident students to  
14 attend the same school as the resident students attended.

15 (b) The order issued by the state committee shall be  
16 certified to the county clerk of each county in which boundaries are  
17 changed and shall also be certified to the State Department of  
18 Education. Whenever the order changes the boundaries of a school  
19 district due to the transfer of land, the county assessor, the  
20 Property Tax Administrator, and the State Department of Education  
21 shall be provided with the legal description and a map of the parcel  
22 of land which is transferred. Such order shall be issued no later than  
23 June 1 and shall have an effective date no later than August 1 of the  
24 same year. For purposes of determining school district counts pursuant  
25 to sections 79-524 and 79-578 and calculating state aid allocations  
26 pursuant to the Tax Equity and Educational Opportunities Support Act,  
27 any change in school district boundaries with an effective date

1 between June 1 and August 1 of any year shall be considered effective  
2 July 1 of such year.

3 (2) Unless otherwise provided by sections 1 to 5 of this  
4 act or other state law or by the terms of an affiliation or  
5 reorganization plan or petition which is consistent with state law,  
6 all assets, including budget authority as provided in sections 79-1023  
7 to 79-1030, and liabilities, except bonded obligations, of school  
8 districts merged, dissolved, or annexed shall be transferred to the  
9 receiving district or districts on the basis of the proportionate  
10 share of assessed valuation received at the time of reorganization.  
11 When a Class II, III, IV, or V school district becomes a Class I  
12 school district:

13 (a) Which becomes part of a Class VI district which offers  
14 instruction in grades six through twelve, 37.9310 percent of the Class  
15 II, III, IV, or V district's assets and liabilities shall be  
16 transferred to the new Class I district and the remainder shall be  
17 transferred to the Class VI district or districts of which the Class I  
18 district becomes a part on the basis of the proportionate share of  
19 assessed valuation each high school district received at the time of  
20 such change in class of district;

21 (b) Which becomes part of a Class VI district which offers  
22 instruction in grades seven through twelve, 44.8276 percent of the  
23 Class II, III, IV, or V district's assets and liabilities shall be  
24 transferred to the new Class I district and the remainder shall be  
25 transferred to the Class VI district or districts of which the Class I  
26 district becomes a part on the basis of the proportionate share of  
27 assessed valuation each high school district received at the time of

1 such change in class of district; or

2 (c) Which is affiliated or becomes part of a Class VI  
3 district which offers instruction in grades nine through twelve,  
4 61.3793 percent of the Class II, III, IV, or V school district's  
5 assets and liabilities shall be transferred to the new Class I  
6 district and the remainder shall be transferred to the Class VI  
7 district or districts of which the Class I district becomes a part and  
8 to the high school district or districts with which the Class I  
9 district is affiliated on the basis of the proportionate share of  
10 assessed valuation each high school district received at the time of  
11 such change in class of district.

12 Sec. 12. The Revisor of Statutes shall assign sections 1 to  
13 3 of this act within Chapter 79.

14 Sec. 13. If any section in this act or any part of any  
15 section is declared invalid or unconstitutional, the declaration shall  
16 not affect the validity or constitutionality of the remaining  
17 portions.

18 Sec. 14. Original section 32-1206, Reissue Revised Statutes  
19 of Nebraska, and sections 79-403, 79-415, and 79-479, Revised Statutes  
20 Cumulative Supplement, 2006, as affected by Referendum 2006, No. 422,  
21 are repealed.

22 Sec. 15. Since an emergency exists, this act takes effect  
23 when passed and approved according to law.