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STATE OF NEBRASKA
OFFICIAL
MAR 23 1992
DEPT. OF JUSTICE

DATE: March 18, 1992

SUBJECT: Plan for reorganization of school districts; bonded indebtedness; election method.

REQUESTED BY: Kent D. Turnbull, Lincoln County Attorney
North Platte, Nebraska

WRITTEN BY: Don Stenberg, Attorney General
Harold Mosher, Senior Assistant Attorney General

Any Class I district or portion thereof which is not part of a Class VI district on July 10, 1990, may, prior to February 1, 1993, file a petition for affiliation pursuant to section 79-402, 79-402.03, or 79-402.04 or a plan for affiliation pursuant to section 79-426.08 with the county superintendent to affiliate with one or more Class II, III, IV, or V districts, or to affiliate in part with one or more Class II, III, IV, or V districts and in part to become part of one or more Class VI districts. Affiliation shall be accomplished pursuant to any of the procedures provided in sections 79-402 to 79-402.08 and the Reorganization of School Districts Act.[1] You have asked if a plan for the reorganization of school districts pursuant to the election method can provide that a certain Class I School district will affiliate with a K-12 school district but shall not be bound by the existing bonded indebtedness of that K-12 school district. Your question requires a review of selected sections of the Reorganization of School Districts Act.[2]

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[1]Neb.Rev.Stat. § 79-402.13 (Supp. 1991)

[2]Neb.Rev.Stat. § 79-426.22 (Reissue 1987)

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When considering a plan to affiliate a Class I school district, or a part thereof, with one or more K-12 school districts, the county committee for the reorganization of school districts must take into account several statutory conditions. Pertinent to the question presented herein are Neb.Rev.Stat. §79-426.10 (Reissue 1987) and Neb.Rev.Stat. §79-426.17 (Supp. 1990).

Neb.Rev.Stat. § 79-426.10 (Reissue 1987) states as follows:

> Before any plan of reorganization is completed by the county committee or special committee, it shall hold one or more public hearings. At such hearings, it shall hear any and all persons interested with respect to (1) the merits of proposed reorganization plans, (2) the value and amount of all school property of whatever nature involved in the proposed action, (3) the amount of outstanding indebtedness of each district and proposed disposition thereof, and (4) the equitable adjustment of all property, debts, and liabilities among the districts involved. The county committee or special committee shall keep a record of all hearings in the formulation of plans for the reorganization of school districts. Notice of such public hearings of the county committee or special committee shall be given by publication in a legal newspaper of general circulation in the county at least ten days prior to such hearing. (Emphasis supplied).

Neb.Rev.Stat. §79-426.17 (Supp. 1990) states as follows:

> Whenever two or more districts are involved in a reorganization plan, the old districts shall continue to be responsible for any indebtedness incurred before the plan takes place, unless a different arrangement is included in the plan voted upon by the people. Bonded indebtedness incurred for high school facilities prior to the adoption of any affiliation plan shall remain the obligation of the high school district unless otherwise specified in the petitions. (Emphasis supplied).

In addition to the above quoted statutes, Neb.Rev.Stat. § 79-426.11 (Reissue 1987), states that the plan shall contain, inter alia, "a summary of the terms on which reorganization is to be made between the reorganized districts. . . . " and, of course, "such other matters as the county committee shall determine proper to be included."

We are therefore of the opinion that a plan to be voted upon by the people pursuant to the Reorganization of School Districts

Act can provide that a certain Class I school district will affiliate with a K-12 school district but shall not be bound by the existing bonded indebtedness of that K-12 school district. If any such plan is approved by the county committee and the state committee for the reorganization of school districts, it shall be designated as the final approved plan and, of course, be submitted to a vote as provided in Neb.Rev.Stat. 79-426.13 (Reissue 1987).

Respectfully submitted,

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APPROVED BY:

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