

SENATE BILL NO. 431—SENATORS PORTER, WASHINGTON,
WIENER AND JAMES

MARCH 15, 1999

Referred to Committee on Human Resources and Facilities

SUMMARY—Revises provisions governing charter schools. (BDR 34-1098)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~for omitted material~~ is material to be omitted.

AN ACT relating to education; authorizing a charter school to offer independent study to pupils; providing for a process of appeal if the board of trustees of a school district denies an application for a charter school; authorizing a charter school to request a waiver from the number of days of instruction required by law; revising provisions governing the liability and immunity from liability of charter schools; revising provisions regarding the educational personnel of a charter school; authorizing a school district to donate surplus property to a charter school; revising various other provisions governing charter schools; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 386.505 is hereby amended to read as follows:
2 386.505 1. The legislature hereby declares that by authorizing the
3 formation of charter schools in this state:
4 (a) The primary consideration of the legislature is to serve the best
5 interests of pupils who are at risk.
6 (b) The intention of the legislature is to provide:
7 (1) The board of trustees of school districts with a method to
8 experiment with providing a variety of independent public schools to the
9 pupils of this state;
10 (2) A framework for such experimentation;
11 (3) A mechanism by which the results achieved by charter schools
12 may be measured and analyzed; and

(4) A procedure by which the positive results achieved by charter schools may be replicated and the negative results may be identified and eliminated.

(c) The intention of the legislature is to provide teachers and other educational personnel, parents, legal guardians and other persons who are interested in the system of public education in this state the opportunity to:

(1) Improve the learning of pupils and, by extension, improve the system of public education;

(2) Increase the opportunities for learning and access to quality education by pupils;

(3) Encourage the use of different and innovative teaching methods;

(4) Establish appropriate measures for and assessments of the learning achieved by pupils who are enrolled in charter schools;

(5) Provide a more thorough and efficient system of accountability of the results achieved in public education in this state; and

(6) Create new professional opportunities for teachers and other educational personnel, including, without limitation, the opportunity to increase the accessibility and responsibility of teachers and other educational personnel for the program of learning offered.

2. The legislature declares that by authorizing the formation of charter schools it is not authorizing:

(a) The establishment of a charter school as a justification to keep open an existing public school that would otherwise be closed;

(b) A means for providing financial assistance for private schools ~~for~~ ;

(c) A means for providing financial assistance for programs of home study ~~for~~ ;

~~—(c)—~~, *except for a charter school that offers independent study to pupils who are enrolled in the charter school, including, without limitation, the use of computer programs to provide instruction at home; or*

(d) The formation of charter schools on the basis of a single race, religion or ethnicity.

Sec. 2. NRS 386.520 is hereby amended to read as follows:

386.520 1. A committee to form a charter school must consist of at least three licensed teachers alone or in combination with:

(a) Ten or more members of the general public;

(b) Representatives of an organization devoted to service to the general public;

(c) Representatives of a private business; or

(d) Representatives of a college or university within the University and Community College System of Nevada.

2. A committee to form a charter school may not submit an application to form a charter school that proposes to convert a private school or a program of study at home into a charter school. *This subsection does not*

1 *prohibit a committee to form a charter school from submitting an*
2 *application that proposes to offer independent study to pupils who are*
3 *enrolled in the charter school, including, without limitation, the use of*
4 *computer programs to provide instruction at home.*

5 3. Before a committee to form a charter school may submit an
6 application to the board of trustees of a school district, it must submit the
7 application to the department. The application must include all information
8 prescribed by the department by regulation and:

9 (a) A written description of how the charter school will carry out the
10 provisions of NRS 386.500 to 386.610, inclusive.

11 (b) A written description of the educational programs that will be
12 offered by the charter school.

13 (c) *If the charter school proposes to offer independent study to pupils*
14 *who are enrolled in the charter school, including, without limitation, the*
15 *use of computer programs to provide instruction at home, a written*
16 *description of:*

17 (1) *The plan for independent study; and*

18 (2) *The method by which the charter school will comply with the*
19 *provisions of NRS 386.500 to 386.610, inclusive, and any other statute or*
20 *regulation applicable to charter schools.*

21 (d) A written description of the level and type of educational services
22 that will be provided to pupils who are at risk.

23 ~~(d)~~ (e) The policy and criteria for admission to the charter school and
24 the justification for the policy and criteria.

25 ~~(e)~~ (f) The standards of achievement for the charter school, including,
26 without limitation, the:

27 (1) Academic and other educational results that will be expected of
28 pupils who are enrolled in the charter school;

29 (2) Time by which such results will be achieved; and

30 (3) Procedure by which the results will be measured and assessed.

31 ~~(f)~~ (g) An agreement to provide a written report at the end of each
32 school semester to the parents and legal guardians of pupils who are
33 enrolled in the charter school, the residents of the community, the sponsor
34 of the charter school and the state board. The written report must include
35 the progress of the charter school in meeting the standards of achievement
36 set forth in the application.

37 ~~(g)~~ (h) The system of governance for the charter school.

38 ~~(h)~~ (i) The system of organization and operation for the charter school.

39 ~~(i)~~ (j) The policies, practices and programs of the charter school that
40 will ensure participation and involvement in the activities of the charter
41 school by parents and legal guardians of pupils who are enrolled in the
42 charter

school.

~~(k)~~ **(k)** The policies and practices of employment by the charter school applicable to the administrators and other employees of the charter school.

~~(l)~~ **(l)** The procedure for evaluation of the teachers and other employees of the charter school, if different from the procedure prescribed in NRS 391.3125.

~~(m)~~ **(m)** The written rules of behavior required of pupils who are enrolled in the charter school, including, without limitation, disciplinary policies and procedures for the charter school.

~~(n)~~ **(n)** A written description of the location of the charter school and the facilities and equipment available to the charter school. The description must include the procedures that will be followed for the disposition of facilities and equipment upon dissolution or nonrenewal of the charter.

~~(o)~~ **(o)** Guidelines for determining who is liable if the charter school is dissolved or its application for renewal is not approved.

~~(p)~~ **(p)** Procedures for auditing the programs and finances of the charter school.

~~(q)~~ **(q)** An agreement that the curriculum of the charter school will focus on the intellectual development of pupils, including, without limitation, the acquisition of identifiable academic and technical skills.

~~(r)~~ **(r)** An agreement that the pupils who are enrolled in the charter school will be tested on a regular basis and that copies of the examinations with a letter or numerical grade will be included in the report of progress of the pupil provided to the parents or legal guardian of the pupil.

~~(s)~~ **(s)** An agreement that a pupil must achieve a specified level of performance appropriate for his grade level before he is promoted to the next grade.

4. The department shall review an application to form a charter school to determine whether it is complete. The department shall provide written notice to the applicant of its approval or denial of the application. If the department denies an application, the department shall include in the written notice the reason for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

Sec. 3. NRS 386.525 is hereby amended to read as follows:

386.525 1. Upon approval of an application by the department, a committee to form a charter school may submit the application to the board of trustees of the school district in which the proposed charter school will be located. The board of trustees shall consider the application at a public meeting for which notice has been provided pursuant to chapter 241 of NRS. The board of trustees shall review the application to determine whether it is complete in accordance with the regulations of the department. The board of trustees shall approve an application if it is complete. The

1 board of trustees shall provide written notice to the applicant of its approval
2 or denial of the application. If the board of trustees denies an application, it
3 shall include in the written notice the reasons for the denial and the
4 deficiencies in the application. The applicant must be granted 30 days after
5 receipt of the written notice to correct any deficiencies identified in the
6 written notice and resubmit the application.

7 *2. If the board of trustees denies an application after it has been*
8 *resubmitted pursuant to subsection 1, the applicant may submit a written*
9 *request to the state board, not more than 30 days after receipt of the*
10 *written notice of denial, to direct the board of trustees to reconsider the*
11 *application. The state board shall consider requests for reconsideration*
12 *in the order in which they are received. If the state board receives such a*
13 *request, it shall consider the request at its next regularly scheduled*
14 *meeting and ensure that notice of the meeting is posted in accordance*
15 *with chapter 241 of NRS. Not more than 30 days after the meeting, the*
16 *state board shall provide written notice of the determination to the*
17 *applicant and to the board of trustees.*

18 *3. If the state board grants a request to direct reconsideration, the*
19 *written notice to the board of trustees of the school district who denied*
20 *the application must include, without limitation, instructions to the board*
21 *of trustees concerning the reconsideration of the application. Not more*
22 *than 30 days after receipt of the written notice from the state board*
23 *directing the reconsideration, the board of trustees shall reconsider the*
24 *application in accordance with the instructions of the state board, make a*
25 *final determination on the application and provide written notice of the*
26 *determination to the applicant. If, upon reconsideration of the*
27 *application, the board of trustees denies the application, the applicant*
28 *may, not more than 30 days after the receipt of the written notice from*
29 *the board of trustees, appeal the final determination to the district court*
30 *of the county in which the proposed charter school will be located.*

31 *4. If an application is approved by the board of trustees, the board of*
32 *trustees and the applicant shall enter into a written agreement concerning*
33 *the methods and procedures for the board of trustees to monitor the*
34 *progress of the charter school. The written agreement must authorize the*
35 *board of trustees and the department to physically inspect the school at any*
36 *time. If the board of trustees of a school district approves an application*
37 *that proposes to offer independent study to pupils who are enrolled in the*
38 *charter school, including, without limitation, the use of computer*
39 *programs to provide instruction at home, the board of trustees shall*
40 *include in the written agreement any conditions for the operation of the*
41 *charter school that the board of trustees determines are necessary.* The
42 contents of the application set forth in NRS 386.520 and the written
43 agreement entered into pursuant to this subsection shall be deemed the

1 written charter of the charter school. A written charter is for a term of 6
2 years unless the governing body of the charter school renews its initial
3 charter after 3 years of operation pursuant to subsection 2 of NRS 386.530.

4 ~~{3.}~~ 5. If an application is approved by the board of trustees, the
5 committee to form a charter school that submitted the application shall be
6 deemed the governing body of the charter school.

7 ~~{4.}~~ 6. Upon request of the governing body of a charter school and the
8 approval of the board of trustees of the school district that granted the
9 written charter, the written charter may be amended if such amendment will
10 grant to the charter school a greater ability to achieve its educational goals
11 and objectives. An amendment must not authorize an extension of the
12 duration of the term of the written charter.

13 **Sec. 4.** NRS 386.545 is hereby amended to read as follows:

14 386.545 The department and the board of trustees of a school district
15 shall:

16 1. Upon request, provide information to the general public concerning
17 the formation and operation of charter schools;

18 2. Maintain a list available for public inspection that describes the
19 location of each charter school;

20 3. ~~{Maintain a list available for public inspection of any buildings or
21 facilities that may be suitable for the operation of a charter school;}~~

22 ~~—4.}~~ Provide reasonable assistance to an applicant for a charter school
23 and to a charter school in carrying out the provisions of NRS 386.500 to
24 386.610, inclusive; and

25 ~~{5.}~~ 4. Provide technical and other reasonable assistance to a charter
26 school for the operation of the charter school.

27 **Sec. 5.** NRS 386.550 is hereby amended to read as follows:

28 386.550 A charter school shall:

29 1. Comply with all laws and regulations relating to discrimination and
30 civil rights.

31 2. Remain nonsectarian, including, without limitation, in its
32 educational programs, policies for admission and employment practices.

33 3. Refrain from charging tuition or fees, levying taxes or issuing bonds.

34 4. Comply with any plan for desegregation ordered by a court that is in
35 effect in the school district in which the charter school is located.

36 5. Comply with the provisions of chapter 241 of NRS.

37 6. ~~{Schedule}~~ *Except as otherwise provided in this subsection,*
38 *schedule* and provide annually at least as many days of instruction as are
39 required of other public schools located in the same school district as the
40 charter school is located. *The governing body of a charter school may*
41 *submit a written request to the superintendent of public instruction for a*
42 *waiver from providing the days of instruction required by this subsection.*
43 *The superintendent of public instruction may grant such a request if the*

1 *governing body demonstrates to the satisfaction of the superintendent*
2 *that:*

3 *(a) Extenuating circumstances exist to justify the waiver; and*

4 *(b) The charter school will provide at least as many hours or minutes*
5 *of instruction as would be provided under a program consisting of 180*
6 *days.*

7 7. Cooperate with the board of trustees of the school district in the
8 administration of the achievement and proficiency examinations
9 administered pursuant to NRS 389.015 to the pupils who are enrolled in the
10 charter school.

11 8. Comply with applicable statutes and regulations governing the
12 achievement and proficiency of pupils in this state.

13 9. Provide at least the courses of instruction that are required of pupils
14 by statute or regulation for promotion to the next grade or graduation from
15 a public high school and require the pupils who are enrolled in the charter
16 school to take those courses of study. This subsection does not preclude a
17 charter school from offering, or requiring the pupils who are enrolled in the
18 charter school to take, other courses of study that are required by statute or
19 regulation.

20 10. Provide instruction on acquired immune deficiency syndrome and
21 the human reproductive system, related to communicable diseases and
22 sexual responsibility in accordance with NRS 389.065.

23 11. Adhere to the same transportation policy that is in effect in the
24 school district in which the charter school is located.

25 *12. Obtain liability insurance as may be required of other public*
26 *schools located in the same school district as the charter school is located*
27 *and otherwise hold harmless, indemnify and defend the sponsor of the*
28 *charter school against any claim or liability arising from an act or*
29 *omission by the governing body of the charter school or an employee or*
30 *officer of the charter school. An action at law may not be maintained*
31 *against the sponsor of a charter school for any cause of action for which*
32 *the charter school has obtained liability insurance.*

33 **Sec. 6.** NRS 386.560 is hereby amended to read as follows:

34 386.560 1. A charter school may contract with the board of trustees
35 of the school district in which the charter school is located to perform any
36 service relating to the operation of the charter school, including, without
37 limitation, transportation and the provision of health services for the pupils
38 who are enrolled in the charter school.

39 2. A charter school may use any public facility located within the
40 school district in which the charter school is located. A charter school may
41 use school buildings owned by the school district only upon approval of the
42 board of trustees of the school district and during times that are not regular
43 school hours.

1 ***3. The board of trustees of a school district may donate surplus***
2 ***personal property of the school district to a charter school that is located***
3 ***within the school district.***

4 **Sec. 7.** NRS 386.595 is hereby amended to read as follows:

5 386.595 1. Except as otherwise provided in this subsection and
6 subsection 2, the provisions of the collective bargaining agreement entered
7 into by the board of trustees of the school district in which the charter
8 school is located apply to the terms and conditions of employment of
9 employees of the charter school. If a written charter is renewed, the
10 employees of the charter school may, at the time of renewal, apply for
11 recognition as a bargaining unit pursuant to NRS 288.160.

12 2. A teacher or a governing body of a charter school may request that
13 the board of trustees of the school district and other persons who entered
14 into the collective bargaining agreement grant a waiver from specific
15 provisions of the collective bargaining agreement for the teacher or
16 governing body.

17 3. All employees of a charter school shall be deemed public
18 employees.

19 4. The governing body of a charter school may make all employment
20 decisions with regard to its employees pursuant to NRS 391.311 to
21 391.3197, inclusive, unless the applicable collective bargaining agreement
22 contains separate provisions relating to the discipline of licensed employees
23 of a school.

24 5. If the written charter of a charter school is revoked, the employees of
25 the charter school must be reassigned to employment within the school
26 district in accordance with the collective bargaining agreement.

27 6. The board of trustees of a school district that is a sponsor of a
28 charter school shall grant a leave of absence, not to exceed 6 years, to any
29 employee who is employed by the board of trustees who requests such a
30 leave of absence to accept employment with the charter school. After the
31 first school year in which an employee is on a leave of absence, he may
32 return to his former teaching position with the board of trustees. After the
33 third school year, an employee who is on a leave of absence may submit a
34 written request to the board of trustees to return to a comparable teaching
35 position with the board of trustees. After the sixth school year, an employee
36 shall either submit a written request to return to a comparable teaching
37 position or resign from the position for which his leave was granted. The
38 board of trustees shall grant a written request to return to a comparable
39 position pursuant to this subsection even if the return of the employee
40 requires the board of trustees to reduce the existing work force of the
41 school district. The board of trustees may require that a request to return to
42 a teaching position submitted pursuant to this subsection be submitted at

1 least 90 days before the employee would otherwise be required to report to
2 duty.

3 7. An employee who is on a leave of absence from a school district
4 pursuant to this section shall contribute to and be eligible for all benefits for
5 which he would otherwise be entitled, including, without limitation,
6 participation in the public employees' retirement system and accrual of
7 time for the purposes of leave and retirement. The time during which such
8 an employee is on leave of absence and employed in a charter school does
9 not count toward the acquisition of permanent status with the school
10 district.

11 8. Upon the return of a teacher to employment in the school district, he
12 is entitled to the same level of retirement, salary and any other benefits to
13 which he would otherwise be entitled if he had not taken a leave of absence
14 to teach in a charter school.

15 9. An employee of a charter school who is not on a leave of absence
16 from a school district is eligible for all benefits for which he would be
17 eligible for employment in a public school, including, without limitation,
18 participation in the public employees' retirement system.

19 10. For all employees of a charter school ~~1:~~
20 ~~—(a) The~~, *the* compensation that a teacher or other school employee
21 would have received if he were employed by the school district must be
22 used to determine the appropriate levels of contribution required of the
23 employee and employer for purposes of the public employees' retirement
24 system.

25 ~~{(b) The compensation that is paid to a teacher or other school employee~~
26 ~~that exceeds the compensation that he would have received if he were~~
27 ~~employed by the school district must not be included for the purposes of~~
28 ~~calculating future retirement benefits of the employee.}~~

29 **Sec. 8.** NRS 389.155 is hereby amended to read as follows:

30 389.155 1. The state board shall, by regulation, establish a program
31 pursuant to which a pupil enrolled full time in high school may complete
32 any required or elective course by independent study outside of the normal
33 classroom setting. ***This subsection does not prohibit a pupil who is***
34 ***enrolled in a charter school and who is not enrolled in high school from***
35 ***completing a course by independent study.***

36 2. The regulations must require that:

37 (a) The teacher of the course assign to the pupil the work assignments
38 necessary to complete the course; and

39 (b) The pupil and teacher meet or otherwise communicate with each
40 other at least once each week during the course to discuss the pupil's
41 progress.

42 3. The board of trustees in each school district may, in accordance with
43 the regulations adopted pursuant to subsections 1 and 2, provide for

1 independent study by pupils enrolled full time in high schools in its district.
2 A board of trustees that chooses to allow such study may provide that:

3 (a) The pupils participating in the independent study be given
4 instruction individually or in a group.

5 (b) The independent study be offered during the regular school day.

6 **4. A charter school that offers independent study to pupils who are**
7 **enrolled in the charter school is not required to comply with the**
8 **regulations of the state board or any rule or regulation of the board of**
9 **trustees of the school district established pursuant to this section.**

10 **Sec. 9.** NRS 41.0305 is hereby amended to read as follows:

11 41.0305 As used in NRS 41.0305 to 41.039, inclusive, the term
12 “political subdivision” includes an organization that was officially
13 designated as a community action agency pursuant to 42 U.S.C. § 2790
14 before that section was repealed and is included in the definition of an
15 “eligible entity” pursuant to 42 U.S.C. § 9902, the Nevada rural housing
16 authority, an airport authority created by special act of the legislature, a
17 regional transportation commission and a fire protection district, irrigation
18 district, school district, **, governing body of a charter school** and other
19 special district that performs a governmental function, even though it does
20 not exercise general governmental powers.

21 **Sec. 10.** NRS 41.0307 is hereby amended to read as follows:

22 41.0307 As used in NRS 41.0305 to 41.039, inclusive:

23 1. “Employee” includes an employee of a ~~part-time~~ :

24 **(a) Part-time** or full-time board, commission or similar body of the state
25 or a political subdivision of the state which is created by law.

26 **(b) Charter school.**

27 2. “Employment” includes any services performed by an immune
28 contractor.

29 3. “Immune contractor” means any natural person, professional
30 corporation or professional association which:

31 (a) Is an independent contractor with the state pursuant to NRS 284.173;
32 and

33 (b) Contracts to provide medical services for the department of
34 prisons.

35 As used in this subsection, “professional corporation” and “professional
36 association ~~+~~” have the meanings ascribed to them in NRS 89.020.

37 4. “Public officer” or “officer” includes:

38 (a) A member of a part-time or full-time board, commission or similar
39 body of the state or a political subdivision of the state which is created by
40 law.

41 (b) A public defender and any deputy or assistant attorney of a public
42 defender or an attorney appointed to defend a person for a limited duration
43 with limited jurisdiction.

(c) A district attorney and any deputy or assistant district attorney or an attorney appointed to prosecute a person for a limited duration with limited jurisdiction.

Sec. 11. NRS 286.520 is hereby amended to read as follows:

286.520 1. Except as otherwise provided in ~~subsections 4, 5 and 6~~ **this section** and NRS 286.525, the consequences of the employment of a retired employee are:

(a) A retired employee who accepts employment or an independent contract with a public employer under this system is disqualified from receiving any allowances under this system for the duration of that employment or contract if:

(1) He accepted the employment or contract within 90 calendar days after the effective date of his retirement; or

(2) He is employed in a position which is eligible to participate in this system.

(b) If a retired employee accepts employment or an independent contract with a public employer under this system more than 90 calendar days after the effective date of his retirement in a position which is not eligible to participate in this system his allowance under this system terminates upon his earning an amount equal to one-half of the average salary for participating public employees who are not police officers or firemen in any fiscal year, for the duration of that employment or contract.

(c) If a retired employee accepts employment with an employer who is not a public employer under this system, the employee is entitled to the same allowances as a retired employee who has no employment.

2. The retired employee and the public employer shall notify the system:

(a) Within 10 days after the first day of an employment or contract governed by paragraph (a) ~~of subsection 1;~~ **of subsection 1;**

(b) Within 30 days after the first day of an employment or contract governed by paragraph (b) ~~of subsection 1;~~ **of subsection 1;** and

(c) Within 10 days after a retired employee earns more than one-half of the average salary for participating public employees who are not police officers or firemen in any fiscal year from an employment or contract governed by paragraph (b) ~~of subsection 1.~~

3. For the purposes of this section, the average salary for participating public employees who are not police officers or firemen must be computed on the basis of the most recent actuarial valuation of the system.

4. If a retired employee is chosen by election or appointment to fill an elective public office, he is entitled to the same allowances as a retired employee who has no employment, unless he is serving in the same office in which he served and for which he received service credit as a member.

1 5. The system may waive for one period of 30 days or less a retired
2 employee's disqualification under this section if the public employer
3 certifies in writing, in advance, that the retired employee is recalled to meet
4 an emergency and that no other qualified person is immediately available.

5 6. A person who accepts employment or an independent contract with
6 either house of the legislature or by the legislative counsel bureau is exempt
7 from the provisions of subsections 1 and 2 for the duration of that
8 employment or contract.

9 ***7. A retired employee who accepts employment with a charter school
10 as a teacher is exempt from the provisions of subsections 1 and 2 for the
11 duration of that employment if the majority of his years of service credit
12 were earned from employment as a teacher.***

13 **Sec. 12.** NRS 332.185 is hereby amended to read as follows:

14 332.185 1. Except as otherwise provided in NRS 334.070 ***H*** and
15 ***subsection 2***, all sales or leases of personal property of the local
16 government must be made, as nearly as possible, under the same conditions
17 and limitations as required by this chapter in the purchase of personal
18 property; but the governing body or its authorized representative may sell
19 any such personal property at public auction if it deems such a sale
20 desirable and in the best interests of the local government.

21 2. ***The board of trustees of a school district may donate surplus
22 personal property of the school district to a charter school that is located
23 within the school district without regard to:***

24 ***(a) The provisions of this chapter; or***

25 ***(b) Any statute, regulation, ordinance or resolution that requires:***

26 ***(1) The posting of notice or public advertising.***

27 ***(2) The inviting or receiving of competitive bids.***

28 ***(3) The selling or leasing of personal property by contract or at a
29 public auction.***

30 3. The provisions of this chapter do not apply to the purchase, sale,
31 lease or transfer of real property by the governing body.

32 **Sec. 13.** 1. This act becomes effective on July 1, 1999.

33 2. Section 11 of this act expires by limitation on July 1, 2001.