

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 540**

Introduced by Chambers, 11.

Read first time January 23, 2013

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend section 79-725, Reissue  
2 Revised Statutes of Nebraska, and sections 79-318 and  
3 79-724, Revised Statutes Cumulative Supplement, 2012; to  
4 prohibit rules and regulations requiring teachers to lead  
5 students in the pledge of allegiance; to harmonize  
6 provisions; and to repeal the original sections.

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

1                   Section 1. Section 79-318, Revised Statutes Cumulative  
2 Supplement, 2012, is amended to read:

3                   79-318 The State Board of Education shall:

4                   (1) Appoint and fix the compensation of the Commissioner  
5 of Education;

6                   (2) Remove the commissioner from office at any time for  
7 conviction of any crime involving moral turpitude or felonious act,  
8 for inefficiency, or for willful and continuous disregard of his or  
9 her duties as commissioner or of the directives of the board;

10                  (3) Upon recommendation of the commissioner, appoint and  
11 fix the compensation of a deputy commissioner and all professional  
12 employees of the board;

13                  (4) Organize the State Department of Education into such  
14 divisions, branches, or sections as may be necessary or desirable to  
15 perform all its proper functions and to render maximum service to the  
16 board and to the state school system;

17                  (5) Provide, through the commissioner and his or her  
18 professional staff, enlightened professional leadership, guidance,  
19 and supervision of the state school system, including educational  
20 service units. In order that the commissioner and his or her staff  
21 may carry out their duties, the board shall, through the  
22 commissioner: (a) Provide supervisory and consultation services to  
23 the schools of the state; (b) issue materials helpful in the  
24 development, maintenance, and improvement of educational facilities  
25 and programs; (c) establish rules and regulations which govern

1 standards and procedures for the approval and legal operation of all  
2 schools in the state and for the accreditation of all schools  
3 requesting state accreditation. All public, private, denominational,  
4 or parochial schools shall either comply with the accreditation or  
5 approval requirements prescribed in this section and section 79-703  
6 or, for those schools which elect not to meet accreditation or  
7 approval requirements, the requirements prescribed in subsections (2)  
8 through (6) of section 79-1601. Standards and procedures for approval  
9 and accreditation shall be based upon the program of studies,  
10 guidance services, the number and preparation of teachers in relation  
11 to the curriculum and enrollment, instructional materials and  
12 equipment, science facilities and equipment, library facilities and  
13 materials, and health and safety factors in buildings and grounds.  
14 Rules and regulations which govern standards and procedures for  
15 private, denominational, and parochial schools which elect, pursuant  
16 to the procedures prescribed in subsections (2) through (6) of  
17 section 79-1601, not to meet state accreditation or approval  
18 requirements shall be as described in such section; (d) institute a  
19 statewide system of testing to determine the degree of achievement  
20 and accomplishment of all the students within the state's school  
21 systems if it determines such testing would be advisable; (e)  
22 prescribe a uniform system of records and accounting for keeping  
23 adequate educational and financial records, for gathering and  
24 reporting necessary educational data, and for evaluating educational  
25 progress; (f) cause to be published laws, rules, and regulations

1 governing the schools and the school lands and funds with explanatory  
2 notes for the guidance of those charged with the administration of  
3 the schools of the state; (g) approve teacher education programs  
4 conducted in Nebraska postsecondary educational institutions designed  
5 for the purpose of certificating teachers and administrators; (h)  
6 approve certificated-employee evaluation policies and procedures  
7 developed by school districts and educational service units; and (i)  
8 approve general plans and adopt educational policies, standards,  
9 rules, and regulations for carrying out the board's responsibilities  
10 and those assigned to the State Department of Education by the  
11 Legislature;

12 (6) Adopt and promulgate rules and regulations for the  
13 guidance, supervision, accreditation, and coordination of educational  
14 service units. Such rules and regulations for accreditation shall  
15 include, but not be limited to, (a) a requirement that programs and  
16 services offered to school districts by each educational service unit  
17 shall be evaluated on a regular basis, but not less than every seven  
18 years, to assure that educational service units remain responsive to  
19 school district needs and (b) guidelines for the use and management  
20 of funds generated from the property tax levy and from other sources  
21 of revenue as may be available to the educational service units, to  
22 assure that public funds are used to accomplish the purposes and  
23 goals assigned to the educational service units by section 79-1204.  
24 The State Board of Education shall establish procedures to encourage  
25 the coordination of activities among educational service units and to

1 encourage effective and efficient educational service delivery on a  
2 statewide basis;

3 (7) Submit a biennial report to the Governor and the  
4 Clerk of the Legislature covering the actions of the board, the  
5 operations of the State Department of Education, and the progress and  
6 needs of the schools and recommend such legislation as may be  
7 necessary to satisfy these needs. The report submitted to the Clerk  
8 of the Legislature shall be submitted electronically;

9 (8) Prepare and distribute reports designed to acquaint  
10 school district officers, teachers, and patrons of the schools with  
11 the conditions and needs of the schools;

12 (9) Provide for consultation with professional educators  
13 and lay leaders for the purpose of securing advice deemed necessary  
14 in the formulation of policies and in the effectual discharge of its  
15 duties;

16 (10) Make studies, investigations, and reports and  
17 assemble information as necessary for the formulation of policies,  
18 for making plans, for evaluating the state school program, and for  
19 making essential and adequate reports;

20 (11) Submit to the Governor and the Legislature a budget  
21 necessary to finance the state school program under its jurisdiction,  
22 including the internal operation and maintenance of the State  
23 Department of Education;

24 (12) Interpret its own policies, standards, rules, and  
25 regulations and, upon reasonable request, hear complaints and

1 disputes arising therefrom;

2           (13) With the advice of the Department of Motor Vehicles,  
3 adopt and promulgate rules and regulations containing reasonable  
4 standards, not inconsistent with existing statutes, governing: (a)  
5 The general design, equipment, color, operation, and maintenance of  
6 any vehicle with a manufacturer's rated seating capacity of eleven or  
7 more passengers used for the transportation of public, private,  
8 denominational, or parochial school students; and (b) the equipment,  
9 operation, and maintenance of any vehicle with a capacity of ten or  
10 less passengers used for the transportation of public, private,  
11 denominational, or parochial school students, when such vehicles are  
12 owned, operated, or owned and operated by any public, private,  
13 denominational, or parochial school or privately owned or operated  
14 under contract with any such school in this state, except for  
15 vehicles owned by individuals operating a school which elects  
16 pursuant to section 79-1601 not to meet accreditation or approval  
17 requirements. Similar rules and regulations shall be adopted and  
18 promulgated for operators of such vehicles as provided in section  
19 79-607;

20           (14) Accept, on behalf of the Nebraska Center for the  
21 Education of Children who are Blind or Visually Impaired, devises of  
22 real property or donations or bequests of other property, or both, if  
23 in its judgment any such devise, donation, or bequest is for the best  
24 interest of the center or the students receiving services from the  
25 center, or both, and irrigate or otherwise improve any such real

1 estate when in the board's judgment it would be advisable to do so;

2 (15) Accept, in order to administer the Interstate  
3 Compact on Educational Opportunity for Military Children, any devise,  
4 donation, or bequest received by the State Department of Education  
5 pursuant to section 79-2206; and

6 (16) Upon acceptance of any devise, donation, or bequest  
7 as provided in this section, administer and carry out such devise,  
8 donation, or bequest in accordance with the terms and conditions  
9 thereof. If not prohibited by the terms and conditions of any such  
10 devise, donation, or bequest, the board may sell, convey, exchange,  
11 or lease property so devised, donated, or bequeathed upon such terms  
12 and conditions as it deems best and remit all money derived from any  
13 such sale or lease to the State Treasurer for credit to the State  
14 Department of Education Trust Fund.

15 Each member of the Legislature shall receive an  
16 electronic copy of the report required by subdivision (7) of this  
17 section by making a request for it to the commissioner.

18 None of the duties prescribed in this section shall  
19 prevent the board from exercising such other duties as in its  
20 judgment may be necessary for the proper and legal exercise of its  
21 obligations, except that nothing in this section authorizes the State  
22 Board of Education to adopt and promulgate rules or regulations  
23 requiring teachers in the public schools to lead students in  
24 recitation of the pledge of allegiance to the United States flag. Any  
25 such rule or regulation adopted by the board before the effective

1 date of this act is hereby declared null and void.

2           Sec. 2. Section 79-724, Revised Statutes Cumulative  
3 Supplement, 2012, is amended to read:

4           79-724 An informed, loyal, just, and patriotic citizenry  
5 is necessary to a strong, stable, just, and prosperous America. Such  
6 a citizenry necessitates that every member thereof be fully  
7 acquainted with the nation's history and that he or she be in full  
8 accord with our form of government and fully aware of the liberties,  
9 opportunities, and advantages of which we are possessed and the  
10 sacrifices and struggles of those through whose efforts these  
11 benefits were gained. Since youth is the time most susceptible to the  
12 acceptance of principles and doctrines that will influence men and  
13 women throughout their lives, it is one of the first duties of our  
14 educational system to conduct its activities, choose its textbooks,  
15 and arrange its curriculum in such a way that the love of liberty,  
16 justice, democracy, and America will be instilled in the hearts and  
17 minds of the youth of the state.

18           (1) Every school board shall, at the beginning of each  
19 school year, appoint from its members a committee of three, to be  
20 known as the committee on Americanism. The committee on Americanism  
21 shall:

22           (a) Carefully examine, inspect, and approve all textbooks  
23 used in the teaching of American history and civil government in the  
24 school. Such textbooks shall adequately stress the services of the  
25 men and women who achieved our national independence, established our

1 constitutional government, and preserved our union and shall be so  
2 written to include contributions by ethnic groups as to develop a  
3 pride and respect for our institutions and not be a mere recital of  
4 events and dates;

5 (b) Assure themselves as to the character of all teachers  
6 employed and their knowledge and acceptance of the American form of  
7 government; and

8 (c) Take all such other steps as will assure the carrying  
9 out of the provisions of this section.

10 (2) All American history courses approved for grade  
11 levels as provided by this section shall include and adequately  
12 stress contributions of all ethnic groups (a) to the development and  
13 growth of America into a great nation, (b) to art, music, education,  
14 medicine, literature, science, politics, and government, and (c) to  
15 the war services in all wars of this nation.

16 (3) All grades of all public, private, denominational,  
17 and parochial schools, below the sixth grade, shall devote at least  
18 one hour per week to exercises or teaching periods for the following  
19 purpose:

20 (a) The recital of stories having to do with American  
21 history or the deeds and exploits of American heroes;

22 (b) The singing of patriotic songs and the insistence  
23 that every pupil memorize the Star-Spangled Banner and America; and

24 (c) The development of reverence for the flag and  
25 instruction as to proper conduct in its presentation, except that

1 nothing in this section authorizes the State Board of Education to  
2 adopt and promulgate rules and regulations requiring teachers in the  
3 public schools to lead students in recitation of the pledge of  
4 allegiance to the United States flag. Any such rule or regulation  
5 adopted by the board before the effective date of this act is hereby  
6 declared null and void.

7           (4) In at least two of the three grades from the fifth  
8 grade to the eighth grade in all public, private, denominational, and  
9 parochial schools, at least three periods per week shall be set aside  
10 to be devoted to the teaching of American history from approved  
11 textbooks, taught in such a way as to make the course interesting and  
12 attractive and to develop a love of country.

13           (5) In at least two grades of every high school, at least  
14 three periods per week shall be devoted to the teaching of civics,  
15 during which courses specific attention shall be given to the  
16 following matters:

17           (a) The United States Constitution and the Constitution  
18 of Nebraska;

19           (b) The benefits and advantages of our form of government  
20 and the dangers and fallacies of Nazism, Communism, and similar  
21 ideologies; and

22           (c) The duties of citizenship, including active  
23 participation in the improvement of a citizen's community, state,  
24 country, and world and the value and practice of civil discourse  
25 between opposing interests.

1           (6) Appropriate patriotic exercises suitable to the  
2 occasion shall be held under the direction of the superintendent in  
3 every public, private, denominational, and parochial school on  
4 Lincoln's birthday, Washington's birthday, Flag Day, Memorial Day,  
5 and Veterans Day, or on the day preceding or following such holiday,  
6 if the school is in session.

7           (7) Every school board, the State Board of Education, and  
8 the superintendent of each school district in the state shall be held  
9 directly responsible in the order named for carrying out this  
10 section, and neglect thereof by any employee or appointed official  
11 shall be considered a dereliction of duty and cause for dismissal.

12           Sec. 3. Section 79-725, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           79-725 Each teacher employed to give instruction in any  
15 public, private, parochial, or denominational school in the State of  
16 Nebraska shall arrange and present his or her instruction to give  
17 special emphasis to common honesty, morality, courtesy, obedience to  
18 law, respect for the national flag, the United States Constitution,  
19 and the Constitution of Nebraska, respect for parents and the home,  
20 the dignity and necessity of honest labor, and other lessons of a  
21 steady influence which tend to promote and develop an upright and  
22 desirable citizenry. Nothing in this section authorizes the State  
23 Board of Education to adopt and promulgate rules and regulations  
24 requiring teachers in the public schools to lead students in  
25 recitation of the pledge of allegiance to the United States flag. Any

1 such rule or regulation adopted by the board before the effective  
2 date of this act is hereby declared null and void.

3           Sec. 4. Original section 79-725, Reissue Revised Statutes  
4 of Nebraska, and sections 79-318 and 79-724, Revised Statutes  
5 Cumulative Supplement, 2012, are repealed.