

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 62
FINAL READING

Introduced by Adams, 24.

Read first time January 8, 2009

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend sections 79-233, 79-237,
2 79-238, 79-1007.22, and 79-2110, Reissue Revised Statutes
3 of Nebraska; to change provisions relating to the
4 enrollment option program and learning communities; to
5 provide a duty for the State Department of Education;
6 to harmonize provisions; to repeal the original sections;
7 and to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-233, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-233 For purposes of sections 79-232 to 79-246:

4 (1) Enrollment option program means the program
5 established in section 79-234;

6 (2) Option school district means the public school
7 district that an option student chooses to attend instead of
8 his or her resident school district;

9 (3) Option student means a student that has chosen
10 to attend an option school district, including a student who
11 resides in a learning community and ~~who has chosen to attend~~
12 began attendance as an option student in an option school district
13 in such learning community prior to the effective date of the
14 establishment end of the first full school year for which the
15 option school district will be a member of such learning community,
16 but not including a student who resides in a learning community and
17 who ~~enrolls~~ attends pursuant to section 79-2110 ~~in~~ another school
18 district in such learning community;

19 (4) Resident school district means the public school
20 district in which a student resides; and

21 (5) Siblings means all children residing in the same
22 household on a permanent basis who have the same mother or father
23 or who are stepbrother or stepsister to each other.

24 Sec. 2. Section 79-237, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 79-237 (1) For a student to attend school begin
2 attendance as an option student in an option school district, which
3 is not in a learning community in which the student resides, the
4 student's parent or legal guardian shall submit an application to
5 the school board of the option school district between September
6 1 and March 15 for ~~enrollment~~ attendance during the following and
7 subsequent school years. Applications submitted after March 15
8 shall be accompanied by a written release from the resident school
9 district. The option school district shall provide the resident
10 school district with the name of the applicant on or before April
11 1. The option school district shall notify, in writing, the parent
12 or legal guardian of the student, and the resident school district,
13 and the State Department of Education whether the application is
14 accepted or rejected on or before April 1.

15 (2) For a student who resides in a learning community
16 to begin attendance in an option school district which is a
17 member of such learning community, the student's parent or legal
18 guardian shall submit an application to the school board of the
19 option school district (a) for any learning community established
20 prior to the effective date of this act, between the effective
21 date of this act and April 1, 2009, or (b) for any learning
22 community established thereafter, between September 1 and March 15.
23 Applications submitted after such deadlines shall be accompanied
24 by a written release from the resident school district. Students
25 who reside in a learning community shall only begin attendance

1 in an option school district which is a member of such learning
2 community prior to the end of the first full school year for
3 which the option school district is a member of such learning
4 community. The option school district shall provide the resident
5 school district with the name of the applicant within five days
6 after the applicable deadline. The option school district shall
7 notify, in writing, the parent or legal guardian of the student,
8 the resident school district, and the State Department of Education
9 whether the application is accepted or rejected on or before
10 April 10 for applications submitted for school year 2009-10 and
11 on or before April 1 for applications submitted for any school
12 year thereafter. A parent or guardian may provide information on
13 the application regarding the applicant's potential qualification
14 for free or reduced-price lunches. Any such information provided
15 shall be subject to verification and shall only be used for
16 the purposes of subsection (3) of section 79-238. Nothing in
17 this subsection requires a parent or guardian to provide such
18 information. Determinations about an applicant's qualification for
19 free or reduced-price lunches for purposes of subsection (3) of
20 section 79-238 shall be based on any verified information provided
21 on the application. If no such information is provided, the student
22 shall be presumed not to qualify for free or reduced-price lunches
23 for the purposes of subsection (3) of section 79-238.

24 (3) Applications for students who do not actually attend
25 the option school district may be withdrawn in good standing upon

1 mutual agreement by both the resident and option school districts.

2 ~~(3)~~ (4) No option student shall attend an option school
3 district for less than one school year unless the student relocates
4 to a different resident school district, completes requirements for
5 graduation prior to the end of his or her senior year, transfers
6 to a private or parochial school, or upon mutual agreement of the
7 resident and option school districts cancels the enrollment option
8 and returns to the resident school district.

9 ~~(4)~~ (5) Except as provided in subsection ~~(3)~~ (4) of this
10 section, the option student shall attend the option school district
11 until graduation unless the student relocates in a different
12 resident school district, transfers to a private or parochial
13 school, or chooses to return to the resident school district.

14 ~~(5)~~ (6) In each case of cancellation pursuant to
15 subsections ~~(3)~~ and (4) and (5) of this section, the student's
16 parent or legal guardian shall notify the school board of the
17 option school district and the resident school district and the
18 department by March 15 for automatic approval for the following
19 school year.

20 ~~(6)~~ (7) The application and cancellation forms shall be
21 prescribed and furnished by the State Department of Education.

22 ~~(7)~~ (8) An option student who subsequently chooses to
23 attend a private or parochial school shall be automatically
24 accepted to return to either the resident school district or
25 option school district upon the completion of the grade levels

1 offered at the private or parochial school. If such student chooses
2 to return to the option school district, the student's parent
3 or legal guardian shall submit another application to the school
4 board of the option school district which shall be automatically
5 accepted, and the deadlines prescribed in this section shall be
6 waived.

7 Sec. 3. Section 79-238, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 79-238 (1) Except as provided in section 79-240, the
10 school board of the option school district shall adopt by
11 resolution specific standards for acceptance and rejection of
12 applications. Standards may include the capacity of a program,
13 class, grade level, or school building or the availability of
14 appropriate special education programs operated by the option
15 district. Capacity shall be determined by setting a maximum number
16 of option students that a district will accept in any program,
17 class, grade level, or school building, based upon available
18 staff, facilities, projected enrollment of resident students,
19 projected number of students with which the option district
20 will contract based on existing contractual arrangements, and
21 availability of appropriate special education programs. The school
22 board of the option school district may by resolution declare
23 a program, a class, or a school unavailable to option students
24 due to lack of capacity. Standards shall not include previous
25 academic achievement, athletic or other extracurricular ability,

1 disabilities, proficiency in the English language, or previous
2 disciplinary proceedings except as provided in section 79-266.01.

3 (2) Any option school district shall give first priority
4 for enrollment to siblings of option students, except that the
5 option school district shall not be required to accept the sibling
6 of an option student if the district is at capacity except as
7 provided in subsections (2) and (4) of section 79-240.

8 (3) Any option school district that is in a learning
9 community shall give second priority for enrollment to students
10 who reside in the learning community and who contribute to the
11 socioeconomic diversity of enrollment as defined in section 79-2110
12 at the school building to which the student will be assigned
13 pursuant to section 79-235.

14 Sec. 4. Section 79-1007.22, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 79-1007.22 (1) For state aid calculated for each of the
17 ~~first two~~ second and third full school fiscal years of a new
18 learning community, each member school district may apply to the
19 department for a new learning community transportation adjustment,
20 on a form prescribed by the department, on or before October
21 10 of the school fiscal year immediately preceding the school
22 fiscal year for which the new learning community transportation
23 adjustment would be included in the calculation of state aid.
24 Such form shall require evidence supporting estimates of increased
25 transportation costs for the district due to the provisions of

1 subsection (2) of section 79-611. On or before the immediately
2 following December 1, the department shall approve the estimate of
3 increased transportation costs for use in the adjustment, approve
4 a modified estimate of increased transportation costs for use in
5 the adjustment, or deny the application based on the requirements
6 of this section, the evidence submitted on the application, and any
7 other information provided by the department. The state board shall
8 establish procedures for appeal of decisions of the department to
9 the state board for final determination.

10 (2) The new learning community transportation adjustment
11 shall equal the approved estimate of increased transportation
12 costs due to the provisions of subsection (2) of section 79-611.
13 School districts shall submit evidence of the actual increase in
14 transportation costs due to the provisions of subsection (2) of
15 section 79-611, and the department shall recalculate the adjustment
16 using such actual costs pursuant to section 79-1065.

17 Sec. 5. On or before March 1, 2009, and February
18 1 of each year thereafter, for purposes of subsection (3)
19 of section 79-238 and sections 79-611 and 79-2110, the State
20 Department of Education shall certify to each learning community
21 and each member school district the average percentage of students
22 qualifying for free or reduced-price lunches in each school
23 building in each member school district and in the aggregate for
24 all school buildings in the learning community based on the most
25 current information available to the department on the immediately

1 preceding January 1. The State Board of Education may adopt and
2 promulgate rules and regulations to carry out this section.

3 Sec. 6. Section 79-2110, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 79-2110 (1)(a) Each diversity plan shall provide for
6 open enrollment in all school buildings in the learning community,
7 subject to specific limitations necessary to bring about diverse
8 enrollments in each school building in the learning community.
9 Such limitations, for school buildings other than focus schools and
10 programs other than focus programs, shall include giving preference
11 at each school building first to siblings of students who will
12 be enrolled as continuing students in such school building or
13 program for the first school year for which enrollment is sought
14 in such school building and then to students that contribute to
15 the socioeconomic diversity of enrollment at each building and may
16 include establishing zone limitations in which students may access
17 several schools other than their home attendance area school.
18 Notwithstanding the limitations necessary to bring about diversity,
19 open enrollment shall include providing access to students who
20 do not contribute to the socioeconomic diversity of a school
21 building, if, subsequent to the open enrollment selection process
22 that is subject to limitations necessary to bring about diverse
23 enrollments, capacity remains in a school building. In such a case,
24 students who have applied to attend such school building shall be
25 selected to attend such school building on a random basis up to the

1 remaining capacity of such building. A student who has otherwise
2 been disqualified from the school building pursuant to the school
3 district's code of conduct or related school discipline rules shall
4 not be eligible for open enrollment pursuant to this section. Any
5 student who attended a particular school building in the prior
6 school year and who is seeking education in the grades offered in
7 such school building shall be allowed to continue attending such
8 school building as a continuing student.

9 (b) To facilitate the open enrollment provisions of
10 this subsection, each school year each member school district
11 in a learning community shall establish a maximum capacity for
12 each school building under such district's control pursuant to
13 procedures and criteria established by the learning community
14 coordinating council. Each member school district shall also
15 establish attendance areas for each school building under the
16 district's control, except that the school board shall not
17 establish attendance areas for focus schools or focus programs.
18 The attendance areas shall be established such that all of the
19 territory of the school district is within an attendance area for
20 each grade. Students residing in a school district shall be allowed
21 to attend a school building in such school district.

22 (c) For purposes of this section and ~~section~~ sections
23 79-238 and 79-611, student who contributes to the socioeconomic
24 diversity of enrollment means (i) a student who does not qualify
25 for free or reduced-price lunches when, based upon ~~official~~

1 ~~membership, the certification pursuant to section 5 of this act,~~
2 the school building the student will attend has more students
3 qualifying for free or reduced-price lunches than the average
4 percentage of such students in all school buildings in the learning
5 community or (ii) a student who qualifies for free or reduced-price
6 lunches when, based upon ~~official membership,~~ the certification
7 pursuant to section 5 of this act, the school building the student
8 will attend has fewer students qualifying for free or reduced-price
9 lunches than the average percentage of such students in all school
10 buildings in the learning community.

11 (2)(a) On or before March 15 of each year beginning
12 with the year immediately following the year in which the initial
13 coordinating council for the learning community takes office, a
14 parent or guardian of a student residing in a member school
15 district in a learning community may submit an application to any
16 school district in the learning community on behalf of a student
17 who is applying to attend a school building for the following
18 school year that is not in an attendance area where the applicant
19 resides or a focus school, focus program, or magnet school as
20 such terms are defined in section 79-769. On or before April 1
21 of each year beginning with the year immediately following the
22 year in which the initial coordinating council for the learning
23 community takes office, the school district shall accept or reject
24 such applications based on the capacity of the school building, the
25 eligibility of the applicant for the school building or program,

1 the number of such applicants that will be accepted for a given
2 school building, and whether or not the applicant contributes to
3 the socioeconomic diversity of the school or program to which he
4 or she has applied and for which he or she is eligible. The school
5 district shall notify such parent or guardian in writing of the
6 acceptance or rejection.

7 (b) A parent or guardian may provide information on
8 the application regarding the applicant's potential qualification
9 for free or reduced-price lunches. Any such information provided
10 shall be subject to verification and shall only be used for the
11 purposes of this section. Nothing in this section requires a parent
12 or guardian to provide such information. Determinations about an
13 applicant's qualification for free or reduced-price lunches for
14 purposes of this section shall be based on any verified information
15 provided on the application. If no such information is provided the
16 student shall be presumed not to qualify for free or reduced-price
17 lunches for the purposes of this section.

18 (c) A student may not apply to attend a school building
19 in the learning community for any grades that are offered by
20 another school building for which the student had previously
21 applied and been accepted pursuant to this section, absent
22 a hardship exception as established by the individual school
23 district. On or before September 1 of each year beginning with
24 the year immediately following the year in which the initial
25 coordinating council for the learning community takes office,

1 each school district shall provide to the learning community
2 coordinating council a complete and accurate report of all
3 applications received, including the number of students who applied
4 at each grade level at each building, the number of students
5 accepted at each grade level at each building, the number of
6 such students that contributed to the socioeconomic diversity that
7 applied and were accepted, the number of applicants denied and the
8 rationales for denial, and other such information as requested by
9 the learning community coordinating council.

10 (3) Each diversity plan may also include establishment of
11 one or more focus schools or focus programs and the involvement
12 of every member school district in one or more pathways across
13 member school districts. Enrollment in each focus school or focus
14 program shall be designed to reflect the socioeconomic diversity
15 of the learning community as a whole. School district selection of
16 students for focus schools or focus programs shall be on a random
17 basis from two pools of applicants, those who qualify for free
18 and reduced-price lunches and those who do not qualify for free
19 and reduced-price lunches. The percentage of students selected for
20 focus schools from the pool of applicants who qualify for free
21 and reduced-price lunches shall be as nearly equal as possible
22 to the percentage of the student body of the learning community
23 who qualify for free and reduced-price lunches. The percentage of
24 students selected for focus schools from the pool of applicants
25 who do not qualify for free and reduced-price lunches shall be

1 as nearly equal as possible to the percentage of the student
2 body of the learning community who do not qualify for free and
3 reduced-price lunches. If more capacity exists in a focus school
4 or program than the number of applicants for such focus school
5 or program that contribute to the socioeconomic diversity of the
6 focus school or program, the school district shall randomly select
7 applicants up to the number of applicants that will be accepted
8 for such building. A student who will complete the grades offered
9 at a focus program, focus school, or magnet school that is part
10 of a pathway shall be allowed to attend the focus program, focus
11 school, or magnet school offering the next grade level as part of
12 the pathway as a continuing student. A student who completes the
13 grades offered at a focus program, focus school, or magnet school
14 shall not be considered a continuing student in the school district
15 responsible for the program or school.

16 (4) On or before February 15 of each year beginning
17 with the year immediately following the year in which the initial
18 coordinating council for the learning community takes office, a
19 parent or guardian of a student who is currently attending a school
20 building or program, except a magnet school, focus school, or focus
21 program, outside of the attendance area where the student resides
22 and who will complete the grades offered at such school building
23 prior to the following school year shall provide notice, on a form
24 provided by the school district, to the school board of the school
25 district containing such school building if such student will

1 attend another school building within such district as a continuing
2 student and which school building such student would prefer to
3 attend. On or before March 1, such school board shall provide a
4 notice to such parent or guardian stating which school building or
5 buildings the student shall be allowed to attend in such school
6 district as a continuing student for the following school year. If
7 the student resides within the school district, the notice shall
8 include the school building offering the grade the student will
9 be entering for the following school year in the attendance area
10 where the student resides. This subsection shall not apply to focus
11 schools or programs.

12 (5) A parent or guardian of a student who moves to a
13 new residence in the learning community after April 1 may apply
14 directly to a school board within the learning community within
15 ninety days after moving for the student to attend a school
16 building outside of the attendance area where the student resides.
17 Such school board shall accept or reject such application within
18 fifteen days after receiving the application, based on the number
19 of applications and qualifications pursuant to subsection (2) or
20 (3) of this section for all other students.

21 (6) A parent or guardian of a student who wishes to
22 change school buildings for emergency or hardship reasons may apply
23 directly to a school board within the learning community at any
24 time for the student to attend a school building outside of the
25 attendance area where the student resides. Such application shall

1 state the emergency or hardship and shall be kept confidential by
2 the school board. Such school board shall accept or reject such
3 application within fifteen days after receiving the application.
4 Applications shall only be accepted if an emergency or hardship
5 was presented which justifies an exemption from the procedures
6 in subsection (4) of this section based on the judgment of such
7 school board, and such acceptance shall not exceed the number of
8 applications that will be accepted for the school year pursuant to
9 subsection (2) or (3) of this section for such building.

10 Sec. 7. Original sections 79-233, 79-237, 79-238,
11 79-1007.22, and 79-2110, Reissue Revised Statutes of Nebraska, are
12 repealed.

13 Sec. 8. Since an emergency exists, this act takes effect
14 when passed and approved according to law.