

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1006

Introduced by Adams, 24; Rogert, 16; Sullivan, 41.

Read first time January 20, 2010

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend sections 79-101 and
2 79-214, Reissue Revised Statutes of Nebraska, and
3 sections 79-318, 79-8,133, and 79-8,137.01, Revised
4 Statutes Supplement, 2009; to change provisions relating
5 to kindergarten entrance age; to harmonize provisions;
6 and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-101, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-101 For purposes of Chapter 79:

4 (1) School district means the territory under the
5 jurisdiction of a single school board authorized by Chapter 79;

6 (2) School means a school under the jurisdiction of a
7 school board authorized by Chapter 79;

8 (3) Legal voter means a registered voter as defined in
9 section 32-115 who is domiciled in a precinct or ward in which he
10 or she is registered to vote and which precinct or ward lies in
11 whole or in part within the boundaries of a school district for
12 which the registered voter chooses to exercise his or her right
13 to vote at a school district election or at an annual or special
14 meeting of a Class I school district;

15 (4) Prekindergarten programs means all early childhood
16 programs provided for children who have not reached the age of five
17 by ~~October 15 of the current school year;~~ the date provided in
18 section 79-214 for kindergarten or beginner grade entrance;

19 (5) Elementary grades means grades kindergarten through
20 eight, inclusive;

21 (6) High school grades means all grades above the eighth
22 grade;

23 (7) School year means (a) for elementary grades other
24 than kindergarten, the time equivalent to at least one thousand
25 thirty-two instructional hours and (b) for high school grades,

1 the time equivalent to at least one thousand eighty instructional
2 hours;

3 (8) Instructional hour means a period of time, at least
4 sixty minutes, which is actually used for the instruction of
5 students;

6 (9) Teacher means any certified employee who is regularly
7 employed for the instruction of pupils in the public schools;

8 (10) Administrator means any certified employee such
9 as superintendent, assistant superintendent, principal, assistant
10 principal, school nurse, or other supervisory or administrative
11 personnel who do not have as a primary duty the instruction of
12 pupils in the public schools;

13 (11) School board means the governing body of any school
14 district. Board of education has the same meaning as school board;

15 (12) Teach means and includes, but is not limited to,
16 the following responsibilities: (a) The organization and management
17 of the classroom or the physical area in which the learning
18 experiences of pupils take place; (b) the assessment and diagnosis
19 of the individual educational needs of the pupils; (c) the
20 planning, selecting, organizing, prescribing, and directing of
21 the learning experiences of pupils; (d) the planning of teaching
22 strategies and the selection of available materials and equipment
23 to be used; and (e) the evaluation and reporting of student
24 progress;

25 (13) Permanent school fund means the fund described in

1 section 79-1035.01;

2 (14) Temporary school fund means the fund described in
3 section 79-1035.02; and

4 (15) School lands means the lands described in section
5 79-1035.03. Educational lands has the same meaning as school lands.

6 The State Board of Education may adopt and promulgate
7 rules and regulations to define school day and other appropriate
8 units of the school calendar.

9 Sec. 2. Section 79-214, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 79-214 (1) For school years before school year 2012-13:

12 ~~(1) (a)~~ Except as provided in subsection (2) subdivision
13 (1) (b) of this section, the school board of any school district
14 shall not admit any child into the kindergarten or beginner grade
15 of any school of such school district unless such child has reached
16 the age of five years or will reach such age on or before October
17 15 of the current year; and-

18 ~~(2) (b)~~ The board may admit a child who will reach the
19 age of five between October 16 and February 1 of the current school
20 year if the parent or guardian requests such entrance and provides
21 an affidavit stating that ~~(a)~~ (i) the child attended kindergarten
22 in another jurisdiction in the current school year, ~~(b)~~ (ii) the
23 family anticipates relocation to another jurisdiction that would
24 allow admission within the current year, or ~~(c)~~ (iii) the child
25 has demonstrated through recognized assessment procedures approved

1 by the board that he or she is capable of carrying the work of
2 kindergarten or the beginner grade.

3 (2) For school year 2012-13 and each school year
4 thereafter:

5 (a) Except as provided in subdivision (2)(b) of this
6 section, the school board of any school district shall not admit
7 any child into the kindergarten or beginner grade of any school of
8 such school district unless such child has reached the age of five
9 years on or before July 31 immediately preceding the school year
10 for which the child is seeking admission; and

11 (b) The board may admit a child who will reach the age
12 of five years on or after August 1 and on or before October 15 of
13 such school year if the parent or guardian requests such entrance
14 and provides an affidavit stating that (i) the child attended
15 kindergarten in another jurisdiction in the current school year,
16 (ii) the family anticipates relocation to another jurisdiction
17 that would allow admission within the current year, or (iii) the
18 child has demonstrated through a recognized assessment procedure
19 approved by the board that he or she is capable of carrying
20 the work of kindergarten or the beginner grade. On or before
21 January 1, 2012, each school board shall, for purposes of this
22 subdivision, approve and make available a recognized assessment
23 procedure for determining if a child is capable of carrying
24 the work of kindergarten or the beginner grade. The board may
25 approve a model assessment procedure adopted by the State Board of

1 Education or may approve another recognized assessment procedure.
2 The school board shall update approved procedures as the board
3 deems appropriate.

4 (3) The board shall comply with the requirements of
5 subsection (2) of section 43-2007 and shall require evidence of:
6 (a) A physical examination by a physician, a physician assistant,
7 or an advanced practice registered nurse, practicing under and in
8 accordance with his or her respective certification act, within
9 six months prior to the entrance of a child into the beginner
10 grade and the seventh grade or, in the case of a transfer from
11 out of state, to any other grade of the local school; and (b)
12 for school year 2006-07 and each school year thereafter, a visual
13 evaluation by a physician, a physician assistant, an advanced
14 practice registered nurse, or an optometrist within six months
15 prior to the entrance of a child into the beginner grade or, in the
16 case of a transfer from out of state, to any other grade of the
17 local school, which consists of testing for amblyopia, strabismus,
18 and internal and external eye health, with testing sufficient to
19 determine visual acuity, except that no such physical examination
20 or visual evaluation shall be required of any child whose parent or
21 guardian objects in writing. The cost of such physical examination
22 and visual evaluation shall be borne by the parent or guardian of
23 each child who is examined.

24 Sec. 3. Section 79-318, Revised Statutes Supplement,
25 2009, is amended to read:

1 79-318 The State Board of Education shall:

2 (1) Appoint and fix the compensation of the Commissioner
3 of Education;

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

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

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

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

1 all schools requesting state accreditation. All public, private,
2 denominational, or parochial schools shall either comply with
3 the accreditation or approval requirements prescribed in this
4 section and section 79-703 or, for those schools which elect not
5 to meet accreditation or approval requirements, the requirements
6 prescribed in subsections (2) through (6) of section 79-1601.
7 Standards and procedures for approval and accreditation shall
8 be based upon the program of studies, guidance services, the
9 number and preparation of teachers in relation to the curriculum
10 and enrollment, instructional materials and equipment, science
11 facilities and equipment, library facilities and materials, and
12 health and safety factors in buildings and grounds. Rules and
13 regulations which govern standards and procedures for private,
14 denominational, and parochial schools which elect, pursuant to the
15 procedures prescribed in subsections (2) through (6) of section
16 79-1601, not to meet state accreditation or approval requirements
17 shall be as described in such section; (d) institute a statewide
18 system of testing to determine the degree of achievement and
19 accomplishment of all the students within the state's school
20 systems if it determines such testing would be advisable; (e) on or
21 before July 1, 2011, adopt one or more model assessment procedures
22 for determining if a child is capable of carrying the work of
23 kindergarten or the beginner grade and update such procedures
24 as appropriate; (f) prescribe a uniform system of records and
25 accounting for keeping adequate educational and financial records,

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

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

1 and goals assigned to the educational service units by section
2 79-1204. The State Board of Education shall establish procedures to
3 encourage the coordination of activities among educational service
4 units and to encourage effective and efficient educational service
5 delivery on a statewide basis;

6 (7) Submit a biennial report to the Governor and the
7 Clerk of the Legislature covering the actions of the board, the
8 operations of the State Department of Education, and the progress
9 and needs of the schools and recommend such legislation as may be
10 necessary to satisfy these needs;

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

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

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

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

1 (12) Interpret its own policies, standards, rules, and
2 regulations and, upon reasonable request, hear complaints and
3 disputes arising therefrom;

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

22 (14) Accept, on behalf of the Nebraska Center for the
23 Education of Children who are Blind or Visually Impaired, devises
24 of real property or donations or bequests of other property, or
25 both, if in its judgment any such devise, donation, or bequest

1 is for the best interest of the center or the students receiving
2 services from the center, or both, and irrigate or otherwise
3 improve any such real estate when in the board's judgment it would
4 be advisable to do so; and

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

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

17 None of the duties prescribed in this section shall
18 prevent the board from exercising such other duties as in its
19 judgment may be necessary for the proper and legal exercise of its
20 obligations.

21 Sec. 4. Section 79-8,133, Revised Statutes Supplement,
22 2009, is amended to read:

23 79-8,133 The Attracting Excellence to Teaching Program
24 is created. For purposes of the Attracting Excellence to Teaching
25 Program:

1 (1) Department means the State Department of Education;

2 (2) Eligible institution means a not-for-profit college
3 or university which (a) is located in Nebraska, (b) is accredited
4 by the North Central Association of Colleges and Schools, (c) has
5 a teacher education program, and (d) if a privately funded college
6 or university, has not opted out of the program pursuant to rules
7 and regulations;

8 (3) Eligible student means an individual who (a) is a
9 full-time student, (b) is enrolled in an eligible institution in
10 an undergraduate or a graduate teacher education program working
11 toward his or her initial certificate to teach in Nebraska, (c)
12 if enrolled at a state-funded eligible institution, is a resident
13 student as described in section 85-502 or, if enrolled in a
14 privately funded eligible institution, would be deemed a resident
15 student if enrolled in a state-funded eligible institution, and (d)
16 for applicants applying for the first time on or after April 23,
17 2009, is a student majoring in a shortage area;

18 (4) Full-time student means, in the aggregate, the
19 equivalent of a student who in a twelve-month period is enrolled
20 in twenty-four semester credit hours for undergraduate students or
21 eighteen semester credit hours for graduate students of classroom,
22 laboratory, clinical, practicum, or independent study course work;

23 (5) Majoring in a shortage area means pursuing a degree
24 which will allow an individual to be properly endorsed to teach in
25 a shortage area;

1 (6) Shortage area means a secular field of teaching for
2 which there is a shortage, as determined by the department, of
3 properly endorsed teachers at the time the borrower first receives
4 funds pursuant to the program; and

5 (7) Teacher education program means a program of study
6 approved by the State Board of Education pursuant to subdivision
7 ~~(5)(g)~~ (5)(h) of section 79-318.

8 Sec. 5. Section 79-8,137.01, Revised Statutes Supplement,
9 2009, is amended to read:

10 79-8,137.01 The Enhancing Excellence in Teaching Program
11 is created. For purposes of the Enhancing Excellence in Teaching
12 Program:

13 (1) Department means the State Department of Education;

14 (2) Eligible institution means a not-for-profit college
15 or university which (a) is located in Nebraska, (b) is accredited
16 by the North Central Association of Colleges and Schools, (c) has
17 a teacher education program, and (d) if a privately funded college
18 or university, has not opted out of the program pursuant to rules
19 and regulations;

20 (3) Eligible student means an individual who (a) is a
21 certificated teacher employed to teach in an approved or accredited
22 school in Nebraska, (b) is enrolled in an eligible institution
23 in a graduate teacher education program, (c) if enrolled at
24 a state-funded eligible institution, is a resident student as
25 described in section 85-502 or, if enrolled in a privately

1 funded eligible institution, would be deemed a resident student
2 if enrolled in a state-funded eligible institution, and (d) is
3 majoring in a shortage area, curriculum and instruction, a subject
4 area in which the individual already holds a secular teaching
5 endorsement, or a subject area that will result in an additional
6 secular teaching endorsement which the superintendent of the school
7 district or head administrator of the private, denominational,
8 or parochial school employing the individual believes will be
9 beneficial to the students of such school district or school as
10 evidenced by a statement signed by the superintendent or head
11 administrator;

12 (4) Graduate teacher education program means a program
13 of study approved by the State Board of Education pursuant to
14 subdivision ~~(5)(g)~~ (5)(h) of section 79-318 which results in
15 obtaining a graduate degree;

16 (5) Majoring in a shortage area or subject area means
17 pursuing a degree which will allow an individual to be properly
18 endorsed to teach in such shortage area or subject area; and

19 (6) Shortage area means a secular field of teaching for
20 which there is a shortage, as determined by the department, of
21 properly endorsed teachers at the time the borrower first receives
22 funds pursuant to the program.

23 Sec. 6. Original sections 79-101 and 79-214, Reissue
24 Revised Statutes of Nebraska, and sections 79-318, 79-8,133, and
25 79-8,137.01, Revised Statutes Supplement, 2009, are repealed.