

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 957

Introduced by Adams, 24.

Read first time January 14, 2010

Committee: Education

A BILL

1 FOR AN ACT relating to students; to amend section 85-1511, Reissue
2 Revised Statutes of Nebraska, and section 79-318, Revised
3 Statutes Supplement, 2009; to provide duties relating
4 to sharing of student information for the State Board
5 of Education, the Board of Regents of the University
6 of Nebraska, the Board of Trustees of the Nebraska
7 State Colleges, and the community colleges; to harmonize
8 provisions; to provide a duty for the Revisor of
9 Statutes; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-318, Revised Statutes Supplement,
2 2009, 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
15 to perform all its proper functions and to render maximum service
16 to the 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
21 staff may carry out their duties, the board shall, through the
22 commissioner: (a) Provide supervisory and consultation services
23 to 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
2 of all schools in the state and for the accreditation of all
3 schools requesting state accreditation. All public, private,
4 denominational, or parochial schools shall either comply with
5 the accreditation or approval requirements prescribed in this
6 section and section 79-703 or, for those schools which elect not
7 to meet accreditation or approval requirements, the requirements
8 prescribed in subsections (2) through (6) of section 79-1601.
9 Standards and procedures for approval and accreditation shall
10 be based upon the program of studies, guidance services, the
11 number and preparation of teachers in relation to the curriculum
12 and enrollment, instructional materials and equipment, science
13 facilities and equipment, library facilities and materials, and
14 health and safety factors in buildings and grounds. Rules and
15 regulations which govern standards and procedures for private,
16 denominational, and parochial schools which elect, pursuant to the
17 procedures prescribed in subsections (2) through (6) of section
18 79-1601, not to meet state accreditation or approval requirements
19 shall be as described in such section; (d) institute a statewide
20 system of testing to determine the degree of achievement and
21 accomplishment of all the students within the state's school
22 systems if it determines such testing would be advisable;
23 (e) prescribe a uniform system of records and accounting for
24 keeping adequate educational and financial records, for gathering
25 and reporting necessary educational data, and for evaluating

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

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

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

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

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

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

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

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

25 (12) Interpret its own policies, standards, rules, and

1 regulations and, upon reasonable request, hear complaints and
2 disputes arising therefrom;

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

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

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

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

13 (16) On or before September 1, 2010, enter into memoranda
14 of understanding with the Board of Regents of the University of
15 Nebraska, the Board of Trustees of the Nebraska State Colleges,
16 and the board of governors of each Nebraska community college
17 area to adopt a policy to share student data. At a minimum,
18 each policy shall ensure that the exchange of information is
19 conducted in conformance with the requirements of the federal
20 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g,
21 and all federal regulations and applicable guidelines adopted
22 in accordance with such federal act, as such act, regulations,
23 and guidelines existed on January 1, 2010. The policy shall
24 additionally require the State Board of Education, upon request, to
25 share student data with qualified researchers. For purposes of this

1 section, qualified researchers includes, but need not be limited
2 to, postsecondary educational institutions, school districts, and
3 public policy research and advocacy organizations.

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

7 None of the duties prescribed in this section shall
8 prevent the board from exercising such other duties as in its
9 judgment may be necessary for the proper and legal exercise of its
10 obligations.

11 Sec. 2. On or before September 1, 2010, the Board of
12 Regents of the University of Nebraska shall enter into a memorandum
13 of understanding with the State Board of Education to adopt a
14 policy to share student data. At a minimum, the policy shall
15 ensure that the exchange of information is conducted in conformance
16 with the requirements of the federal Family Educational Rights and
17 Privacy Act of 1974, 20 U.S.C. 1232g, and all federal regulations
18 and applicable guidelines adopted in accordance with such federal
19 act, as such act, regulations, and guidelines existed on January 1,
20 2010. The policy shall additionally require the Board of Regents,
21 upon request, to share student data with qualified researchers. For
22 purposes of this section, qualified researchers includes, but need
23 not be limited to, postsecondary educational institutions, school
24 districts, and public policy research and advocacy organizations.

25 Sec. 3. On or before September 1, 2010, the Board

1 of Trustees of the Nebraska State Colleges shall enter into a
2 memorandum of understanding with the State Board of Education to
3 adopt a policy to share student data. At a minimum, the policy
4 shall ensure that the exchange of information is conducted in
5 conformance with the requirements of the federal Family Educational
6 Rights and Privacy Act of 1974, 20 U.S.C. 1232g, and all federal
7 regulations and applicable guidelines adopted in accordance with
8 such act, as such act, regulations, and guidelines existed on
9 January 1, 2010. The policy shall additionally require the board
10 of trustees, upon request, to share student data with qualified
11 researchers. For purposes of this section, qualified researchers
12 includes, but need not be limited to, postsecondary educational
13 institutions, school districts, and public policy research and
14 advocacy organizations.

15 Sec. 4. Section 85-1511, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 85-1511 In addition to any other powers and duties
18 imposed upon the community college system or its areas, campuses,
19 or boards by the Community College Foundation and Equalization Aid
20 Act, sections 85-917 to 85-966 and 85-1501 to 85-1540, and any
21 other provision of law, each board shall:

22 (1) Have general supervision, control, and operation of
23 each community college within its jurisdiction;

24 (2) Subject to coordination by the Coordinating
25 Commission for Postsecondary Education as prescribed in the

1 Coordinating Commission for Postsecondary Education Act, develop
2 and offer programs of applied technology education, academic
3 transfer programs, academic support courses, and such other
4 programs and courses as the needs of the community college area
5 served may require. The board shall avoid unnecessary duplication
6 of existing programs and courses in meeting the needs of the
7 students and the community college area;

8 (3) Employ, for a period to be fixed by the board,
9 executive officers, members of the faculty, and such other
10 administrative officers and employees as may be necessary or
11 appropriate and fix their salaries and duties;

12 (4) Subject to coordination by the Coordinating
13 Commission for Postsecondary Education as prescribed in the
14 Coordinating Commission for Postsecondary Education Act, construct,
15 lease, purchase, purchase on contract, operate, equip, and maintain
16 facilities;

17 (5) Contract for services connected with the operation of
18 the community college area as needs and interest demand;

19 (6) Cause an examination and comprehensive audit of
20 the books, accounts, records, and affairs, including full-time
21 equivalent student enrollment totals, full-time equivalent totals,
22 and reimbursable educational unit totals as defined in section
23 85-1503, to be made annually covering the most recently completed
24 fiscal year. The audit of each area shall include the full-time
25 equivalent student enrollment totals, full-time equivalent totals,

1 and reimbursable educational unit totals for the three most
2 recently completed fiscal years which shall be used for calculation
3 of aid to the community college areas as prescribed in the
4 Community College Foundation and Equalization Aid Act. The audit
5 shall also include the county-certified property valuations for the
6 community college area for the three most recently completed fiscal
7 years which shall be used for calculation of aid to such community
8 college areas. Such examination and audit of the books, accounts,
9 records, and affairs shall be completed and filed with the Auditor
10 of Public Accounts and the Department of Administrative Services
11 on or before October 15 of each year. The examination and audit
12 of the full-time equivalent student enrollment totals, full-time
13 equivalent totals, and reimbursable educational unit totals shall
14 be completed and filed with the Auditor of Public Accounts and the
15 Department of Administrative Services on or before August 15 of
16 each year;

17 (7) Establish fees and charges for the facilities
18 authorized by sections 85-1501 to 85-1540. Each board may enter
19 into agreements with owners of facilities to be used for housing
20 regarding the management, operation, and government of such
21 facilities and may employ necessary employees to govern, manage,
22 and operate such facilities;

23 (8) Receive such gifts, grants, conveyances, and bequests
24 of real and personal property from public or private sources as
25 may be made from time to time, in trust or otherwise, whenever

1 the terms and conditions thereof will aid in carrying out the
2 community college programs as specified by law. Each board may
3 sell, lease, exchange, invest, or expend such gifts, grants,
4 conveyances, and bequests or the proceeds, rents, profits, and
5 income therefrom according to the terms and conditions thereof and
6 adopt and promulgate rules and regulations governing the receipt
7 and expenditure of such proceeds, rents, profits, and income,
8 except that acceptance of such gifts, grants, or conveyances shall
9 not be conditioned on matching state or local funds;

10 (9) Prescribe the courses of study for any community
11 college under its control and publish such catalogs and bulletins
12 as may be necessary;

13 (10) Grant to every student upon graduation or completion
14 of a course of study a suitable diploma, associate degree, or
15 certificate;

16 (11) Adopt and promulgate such rules and regulations
17 and perform all other acts as the board may deem necessary
18 or appropriate to the administration of the community college
19 area. Such rules and regulations shall include, but not be
20 limited to, rules and regulations relating to facilities, housing,
21 scholarships, discipline, and pedestrian and vehicular traffic on
22 property owned, operated, or maintained by the community college
23 area;

24 (12) Employ, for a period to be fixed by the board, an
25 executive officer for the community college area and, by written

1 order filed in its office, delegate to such executive officer
2 any of the powers and duties vested in or imposed upon it by
3 sections 85-1501 to 85-1540. Such delegated powers and duties may
4 be exercised in the name of the board;

5 (13) Acquire real property by eminent domain pursuant to
6 sections 76-701 to 76-724;

7 (14) Acquire real and personal property and sell, convey,
8 or lease such property whenever the community college area will
9 be benefited thereby. The sale, conveyance, or lease of any real
10 estate owned by a community college area shall be effective only
11 when authorized by an affirmative vote of at least two-thirds of
12 all the members of the board;

13 (15) Enter into agreements for services, facilities, or
14 equipment and for the presentation of courses for students when
15 such agreements are deemed to be in the best interests of the
16 education of the students involved;

17 (16) Transfer tribally controlled community college state
18 aid amounts to a tribally controlled community college located
19 within its community college area;

20 (17) Invest, after proper consideration of the
21 requirements for the availability of money, funds of the community
22 college in securities the nature of which individuals of prudence,
23 discretion, and intelligence acquire or retain in dealing with the
24 property of another;

25 (18) Establish tuition rates for courses of instruction

1 offered by each community college within its community college
2 area. Separate tuition rates shall be established for students who
3 are nonresidents of the State of Nebraska;

4 (19) Establish a fiscal year for the community college
5 area which conforms to the fiscal year of the state; and

6 (20) On or before September 1, 2010, enter into a
7 memorandum of understanding with the State Board of Education to
8 adopt a policy to share student data. At a minimum, the policy
9 shall ensure that the exchange of information is conducted in
10 conformance with the requirements of the federal Family Educational
11 Rights and Privacy Act of 1974, 20 U.S.C. 1232g, and all federal
12 regulations and applicable guidelines adopted in accordance with
13 such act, as such act, regulations, and guidelines existed on
14 January 1, 2010. The policy shall additionally require the
15 community college board of governors, upon request, to share
16 student data with qualified researchers. For purposes of this
17 section, qualified researchers includes, but need not be limited
18 to, postsecondary educational institutions, school districts, and
19 public policy research and advocacy organizations; and

20 ~~(20)~~ (21) Exercise any other powers, duties, and
21 responsibilities necessary to carry out sections 85-1501 to
22 85-1540.

23 Sec. 5. The Revisor of Statutes shall assign section 2 of
24 this act within Chapter 85, article 1, and shall assign section 3
25 of this act within Chapter 85, article 3.

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1 Sec. 6. Original section 85-1511, Reissue Revised
2 Statutes of Nebraska, and section 79-318, Revised Statutes
3 Supplement, 2009, are repealed.