

**ONE HUNDRED SIXTH LEGISLATURE - SECOND SESSION - 2020**  
**COMMITTEE STATEMENT**  
**LB965**

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**Hearing Date:** Tuesday January 28, 2020  
**Committee On:** Education  
**Introducer:** McDonnell  
**One Liner:** Establish a language assessment program for children who are deaf or hard of hearing

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

**Aye:** 8 Senators Brewer, Groene, Kolowski, Morfeld, Linehan, Murman,  
Pansing Brooks, Walz

**Nay:**

**Absent:**

**Present Not Voting:**

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**Oral Testimony:**

**Proponents:**

Senator Mike McDonnell  
Linsay Darnall  
Jonathan Scherling  
Amy Rhone

**Representing:**

Introducer  
self  
Nebraska Association of the Deaf  
NDE

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

Legislative Bill 965 creates an entirely new section of statute that requires the Commission for the Deaf and Hard of Hearing (Commission) to establish and coordinate a language assessment program to assess, monitor and track language developmental milestones for children, birth through age five, who are deaf or hard of hearing. The scope of the program shall include children who use one or more communication modes in American Sign Language (ASL), English literacy, and, if applicable, spoken English and visual supplements.

On and after July 31, 2021, LB965 requires language assessments to be given, as needed, to each child who is deaf or hard of hearing and is less than six-years-old. The language assessments shall be provided either:

- a) For children below the age of three, through early intervention services administered by a network (Network) that provides service coordination for children with special needs, or
- b) For children three-years-old or older, through the school district in which the child is enrolled

LB965 requires that any regional programs for the education of children who are deaf or hard of hearing coordinated through NDE shall enter into an interagency agreement with the Commission to share statewide aggregate data.

LB965 requires that annually by January 31, beginning in 2021, the Commission publish an electronic report to the

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Education Committee and the Clerk of the Legislature specific to language and literacy developmental milestones of children who are deaf or hard of hearing for each age from birth through age five, including those who have additional disabilities, relative to such children's peers who are not deaf or hard of hearing. The report shall be based on existing data annually reported by NDE in compliance with the federally required state performance plan on pupils with disabilities.

LB965 requires the Commission to appoint an advisory committee to advise it regarding all aspects of the language assessment program to be established by this bill. The advisory committee shall consist of fourteen members. The members shall be:

- 1) A credentialed teacher of the deaf who uses both ASL and English during instruction
- 2) A credentialed teacher of the deaf who uses spoken English, without visual supplements, during instruction
- 3) A credentialed teacher of the deaf who has expertise in curriculum development and instruction for ASL and English
- 4) A credentialed teacher of the deaf who has expertise in language development in both ASL and English
- 5) A speech language pathologist who has experience working with children from birth through the age of five
- 6) A professional with a linguistic background who conducts research on language outcomes of children who are deaf or hard of hearing and who uses both ASL and English
- 7) A parent of a child who is deaf or hard of hearing and who uses both ASL and English
- 8) A parent of a child who is deaf or hard of hearing and who uses spoken English with or without visual supplements
- 9) A member that is knowledgeable about teaching and using both ASL and English in the education of children who are deaf or hard of hearing
- 10) A community member representing the deaf community
- 11) A community member representing the hard of hearing community
- 12) The state liaison for regional programs or the liaison's designee
- 13) A member of the Commission
- 14) The coordinator for the Network

On or before August 1, 2020, the executive director of the Commission shall call an organizational meeting of the advisory committee where they will elect a chairperson and vice-chairperson. The advisory committee may meet at any time and at any place within the state on the call of the chairperson. All actions shall be by motion adopted by a majority of those present when there is a quorum, which is defined as six members.

On or before July 1, 2021, the advisory committee shall develop specific action plans and make recommendations necessary to fully implement the language assessment program. LB965 states that the advisory shall:

- a) Collaborate with the Network and an advisory council that provides policy guidance to NDE
- b) Solicit input from professionals trained in the language development and education of children who are deaf or hard of hearing on the selection of specific language developmental milestones
- c) Review, recommend and monitor the use of existing and available language assessments for children who are deaf or hard of hearing
- d) Determine and recommend qualifications for identifying language professionals with knowledge of the use of evidence-based, best practices in English and ASL who can be available to advocate at Individualized Family Service Plan (IFSP) or Individualized Education Plan (IEP) team meetings
- e) Determine qualifications for identifying language assessment evaluators with knowledge of the use of evidence-based, best practices with children who are deaf or hard of hearing and the resources for locating such evaluators, and
- f) Determine procedures and methods for communicating information on language acquisition, assessment results, milestones, assessment tools used, and progress of the child to the parent or legal guardian of such child and the teachers and other professionals involved in the early intervention and education of such child

LB965 states that the specific action plans and recommendations developed by the advisory committee shall include, but are not limited to, the following:

- 1) Language assessments that include data collection and timely tracking of the child's development so as to provide

information about the child's receptive and expressive language compared to such child's linguistically age-appropriate peers who are not deaf or hard of hearing

2) Language assessments conducted in accordance with standardized norms and timelines in order to monitor and track language developmental milestones in receptive, expressive, social, and pragmatic language acquisition and developmental stages to show progress in ASL literacy, English literacy, or both, for all children who are deaf or hard of hearing from birth through the age of five

3) Language assessments delivered in the child's mode of communication and which have been validated for the specific purposes for which each assessment is used, and appropriately normed

4) Language assessments administered by individuals who are proficient in ASL for ASL assessments and English for English assessments

5) Use of assessment results, in addition to the results of the assessment required by federal law, for guidance in the language developmental discussions by IFSP or IEP team meetings when assessing the child's progress in language development

6) Reporting of assessment results to the parents or legal guardian of the child and any applicable agency

7) Reporting of assessment results on an aggregated basis to the Education Committee, the Clerk of the Legislature, and the Governor; and

8) Reporting of assessment results to the members of the child's IFSP or IEP team, which assessment results may be used, in addition to the results of the assessment required by federal law, by the child's IFSP or IEP team, as applicable, to track the child's progress, and to establish or modify the IFSP or individualized education plan.

Per LB965, the advisory committee terminates on July 1, 2021.

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#### **Explanation of amendments:**

Committee AM2234 strikes the original provisions of LB965. In addition to making changes included in the amended provisions of LB965, AM2234 incorporates amended provisions of LB839 into LB965.

Sections 1-3 incorporate amended language from LB839. It declares that American Sign Language (ASL) is recognized by the State of Nebraska as a distinct and separate language. It allows the State Department of Education to provide for the teaching of ASL in public, private, denominational, and parochial schools. It requires that if a school offers a course in ASL that it be provided to all students regardless of whether the student is hearing, hard of hearing, or deaf, and allows it to be used for world language credits by the school.

LB839 also allows any postsecondary institution to offer an elective course in ASL, and specifies that any credits earned in such a course may be treated as world language credits.

Public Hearing Testimony on LB839 - In this case, the public hearing on LB839 was held in conjunction with LB965. See the listed testifiers below:

LB839 Testimony -

Proponents:

Senator Anna Wishart, introducer

Linsay Darnall Jr., self

Jonathan Scherling, Nebraska Association of the Deaf

Carly Weyers, Nebraska Commission for the Deaf & Hard of Hearing

Amy Rhone, Nebraska Department of Education

Rose Godinez, ACLU

Opponents: none

Neutral: none

The Committee vote to incorporate LB839 into LB965 was:

AYE: 8 Brewer, Groene, Kolowski, Linehan, Morfeld, Murman, Pansing Brooks, Walz

NAY: 0

PRESENT NOT VOTING: 0

ABSENT: 0

Sections 4-6 amends original language in LB965 as follows:

Changes the requirement for language assessments to be conducted by Nebraska Department of Education (NDE), in collaboration with the Commission for the Deaf and Hard of Hearing (Commission). Makes the required report to be done jointly by both entities and changes the date of such report from January 31 of each year to December 31 of each year.

Removes the requirement language for how the language assessments shall be provided and replaces it with language that states the assessments shall be provided in compliance with the state Special Education Act and the federal Individuals with Disabilities Education Act, as such act existed on January 1, 2020.

Removes the requirement that any regional programs for the education of children who are deaf or hard of hearing coordinated through NDE shall enter into an interagency agreement with the Commission to share statewide aggregate data.

Clarifies the language of the state liaison for regional programs that is assigned to the advisory committee to "the state liaison for any regional programs for the education of children who are deaf or hard of hearing, coordinated through the State Department of Education."

Makes language changes to the advisory committee's role from "review, recommend, and monitor the use of ... language assessments" to "review and recommend"; and from "determine and recommend qualifications for identifying language professionals" to "recommend qualifications". Similarly, it changes "determine" in the committee's responsibilities to "recommend".

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Mike Groene, Chairperson