

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 998

Introduced by Murman, 38.

Read first time January 14, 2020

Committee: Education

1 A BILL FOR AN ACT relating to schools; to amend section 79-2,146, Reissue
2 Revised Statutes of Nebraska, sections 9-812, 79-2,144, 79-1001, and
3 79-1007.11, Revised Statutes Cumulative Supplement, 2018, and
4 section 79-1017.01, Revised Statutes Supplement, 2019; to transfer
5 money; to create a fund; to provide duties; to require behavioral
6 awareness and intervention training and behavioral awareness and
7 intervention points of contact as prescribed; to change the Tax
8 Equity and Educational Opportunities Support Act as prescribed; to
9 harmonize provisions; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 9-812, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 9-812 (1) All money received from the operation of lottery games
4 conducted pursuant to the State Lottery Act in Nebraska shall be credited
5 to the State Lottery Operation Trust Fund, which fund is hereby created.
6 All payments of the costs of establishing and maintaining the lottery
7 games shall be made from the State Lottery Operation Cash Fund. In
8 accordance with legislative appropriations, money for payments for
9 expenses of the division shall be transferred from the State Lottery
10 Operation Trust Fund to the State Lottery Operation Cash Fund, which fund
11 is hereby created. All money necessary for the payment of lottery prizes
12 shall be transferred from the State Lottery Operation Trust Fund to the
13 State Lottery Prize Trust Fund, which fund is hereby created. The amount
14 used for the payment of lottery prizes shall not be less than forty
15 percent of the dollar amount of the lottery tickets which have been sold.

16 (2) A portion of the dollar amount of the lottery tickets which have
17 been sold on an annualized basis shall be transferred from the State
18 Lottery Operation Trust Fund to the Education Innovation Fund, the
19 Nebraska Opportunity Grant Fund, the Nebraska Education Improvement Fund,
20 the Nebraska Environmental Trust Fund, the Nebraska State Fair Board, and
21 the Compulsive Gamblers Assistance Fund as provided in subsection (3) of
22 this section. The dollar amount transferred pursuant to this subsection
23 shall equal the greater of (a) the dollar amount transferred to the funds
24 in fiscal year 2002-03 or (b) any amount which constitutes at least
25 twenty-two percent and no more than twenty-five percent of the dollar
26 amount of the lottery tickets which have been sold on an annualized
27 basis. To the extent that funds are available, the Tax Commissioner and
28 director may authorize a transfer exceeding twenty-five percent of the
29 dollar amount of the lottery tickets sold on an annualized basis.

30 (3) Of the money available to be transferred to the Education
31 Innovation Fund, the Nebraska Opportunity Grant Fund, the Nebraska

1 Education Improvement Fund, the Nebraska Environmental Trust Fund, the
2 Nebraska State Fair Board, and the Compulsive Gamblers Assistance Fund:

3 (a) The first five hundred thousand dollars shall be transferred to
4 the Compulsive Gamblers Assistance Fund to be used as provided in section
5 9-1006;

6 (b) Beginning July 1, 2016, forty-four and one-half percent of the
7 money remaining after the payment of prizes and operating expenses and
8 the initial transfer to the Compulsive Gamblers Assistance Fund shall be
9 transferred to the Nebraska Education Improvement Fund;

10 (c) Forty-four and one-half percent of the money remaining after the
11 payment of prizes and operating expenses and the initial transfer to the
12 Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska
13 Environmental Trust Fund to be used as provided in the Nebraska
14 Environmental Trust Act;

15 (d) Ten percent of the money remaining after the payment of prizes
16 and operating expenses and the initial transfer to the Compulsive
17 Gamblers Assistance Fund shall be transferred to the Nebraska State Fair
18 Board if the most populous city within the county in which the fair is
19 located provides matching funds equivalent to ten percent of the funds
20 available for transfer. Such matching funds may be obtained from the city
21 and any other private or public entity, except that no portion of such
22 matching funds shall be provided by the state. If the Nebraska State Fair
23 ceases operations, ten percent of the money remaining after the payment
24 of prizes and operating expenses and the initial transfer to the
25 Compulsive Gamblers Assistance Fund shall be transferred to the General
26 Fund; and

27 (e) One percent of the money remaining after the payment of prizes
28 and operating expenses and the initial transfer to the Compulsive
29 Gamblers Assistance Fund shall be transferred to the Compulsive Gamblers
30 Assistance Fund to be used as provided in section 9-1006.

31 (4) The Nebraska Education Improvement Fund is created. The fund

1 shall consist of money transferred pursuant to subsection (3) of this
2 section, money transferred pursuant to section 85-1920, and any other
3 funds appropriated by the Legislature. The fund shall be allocated, after
4 actual and necessary administrative expenses, as provided in this section
5 for fiscal years 2016-17 through 2020-21. A portion of each allocation
6 may be retained by the agency to which the allocation is made or the
7 agency administering the fund to which the allocation is made for actual
8 and necessary expenses incurred by such agency for administration,
9 evaluation, and technical assistance related to the purposes of the
10 allocation, except that no amount of the allocation to the Nebraska
11 Opportunity Grant Fund may be used for such purposes. On or before
12 December 31, 2019, the Education Committee of the Legislature shall
13 electronically submit recommendations to the Clerk of the Legislature
14 regarding how the fund should be allocated to best advance the
15 educational priorities of the state for the five-year period beginning
16 with fiscal year 2021-22. For fiscal year 2016-17, an amount equal to ten
17 percent of the revenue allocated to the Education Innovation Fund and to
18 the Nebraska Opportunity Grant Fund for fiscal year 2015-16 shall be
19 retained in the Nebraska Education Improvement Fund. For fiscal years
20 2017-18 through 2020-21, an amount equal to ten percent of the revenue
21 received by the Nebraska Education Improvement Fund in the prior fiscal
22 year shall be retained in the fund. The balance of the fund on June 30,
23 2021, shall be transferred to the Behavioral Training Cash Fund. For
24 fiscal years 2016-17 through 2020-21, the remainder of the Nebraska
25 Education Improvement Fund fund, after payment of any learning community
26 transition aid pursuant to section 79-10,145, shall be allocated as
27 follows:

28 (a) One percent of the allocated funds to the Expanded Learning
29 Opportunity Grant Fund to carry out the Expanded Learning Opportunity
30 Grant Program Act;

31 (b) Seventeen percent of the allocated funds to the Department of

1 Education Innovative Grant Fund to be used (i) for competitive innovation
2 grants pursuant to section 79-1054 and (ii) to carry out the purposes of
3 section 79-759;

4 (c) Nine percent of the allocated funds to the Community College Gap
5 Assistance Program Fund to carry out the community college gap assistance
6 program;

7 (d) Eight percent of the allocated funds to the Excellence in
8 Teaching Cash Fund to carry out the Excellence in Teaching Act;

9 (e) Sixty-two percent of the allocated funds to the Nebraska
10 Opportunity Grant Fund to carry out the Nebraska Opportunity Grant Act in
11 conjunction with appropriations from the General Fund; and

12 (f) Three percent of the allocated funds to fund distance education
13 incentives pursuant to section 79-1337.

14 (5) Any money in the State Lottery Operation Trust Fund, the State
15 Lottery Operation Cash Fund, the State Lottery Prize Trust Fund, the
16 Nebraska Education Improvement Fund, or the Education Innovation Fund
17 available for investment shall be invested by the state investment
18 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
19 State Funds Investment Act.

20 (6) Unclaimed prize money on a winning lottery ticket shall be
21 retained for a period of time prescribed by rules and regulations. If no
22 claim is made within such period, the prize money shall be used at the
23 discretion of the Tax Commissioner for any of the purposes prescribed in
24 this section.

25 Sec. 2. The Behavioral Training Cash Fund is created. The fund
26 shall be administered by the State Department of Education and shall
27 consist of money received pursuant to section 9-812 and any money
28 appropriated by the Legislature. The department shall distribute money in
29 the fund pursuant to section 6 of this act to school districts for
30 behavioral awareness and intervention training required pursuant to
31 section 79-2,146. Any money in the fund available for investment shall be

1 invested by the state investment officer pursuant to the Nebraska Capital
2 Expansion Act and the Nebraska State Funds Investment Act.

3 Sec. 3. Section 79-2,144, Revised Statutes Cumulative Supplement,
4 2018, is amended to read:

5 79-2,144 The state school security director appointed pursuant to
6 section 79-2,143 shall be responsible for providing leadership and
7 support for safety and security for the public schools. Duties of the
8 director include, but are not limited to:

9 (1) Collecting safety and security plans, required pursuant to rules
10 and regulations of the State Department of Education relating to
11 accreditation of schools, and other school security information from each
12 school system in Nebraska. School districts shall provide the state
13 school security director with the safety and security plans of the school
14 district and any other security information requested by the director,
15 but any plans or information submitted by a school district may be
16 withheld by the department pursuant to subdivision (8) of section
17 84-712.05;

18 (2) Recommending minimum standards for school security on or before
19 January 1, 2016, to the State Board of Education;

20 (3) Conducting an assessment of the security of each public school
21 building, which assessment shall be completed by August 31, 2019;

22 (4) Identifying deficiencies in school security based on the minimum
23 standards adopted by the State Board of Education and making
24 recommendations to school boards for remedying such deficiencies;

25 (5) Establishing security awareness and preparedness tools and
26 training programs for public school staff;

27 (6) Establishing research-based model instructional programs for
28 staff, students, and parents to address the underlying causes for violent
29 attacks on schools;

30 (7) Overseeing suicide awareness and prevention training in public
31 schools pursuant to section 79-2,146;

1 (8) Establishing tornado preparedness standards which shall include,
2 but not be limited to, ensuring that every school conducts at least two
3 tornado drills per year;

4 (9) Collecting behavioral awareness and intervention training plans
5 and certifying compliance or noncompliance with section 79-2,146 to the
6 State Department of Education for each school district;

7 ~~(10) (9)~~ Responding to inquiries and requests for assistance
8 relating to school security from private, denominational, and parochial
9 schools; and

10 ~~(11) (10)~~ Recommending curricular and extracurricular materials to
11 assist school districts in preventing and responding to cyberbullying and
12 digital citizenship issues.

13 Sec. 4. Section 79-2,146, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 79-2,146 (1)(a) ~~(1)~~ Beginning in school year 2015-16, all public
16 school nurses, teachers, counselors, school psychologists,
17 administrators, school social workers, and any other appropriate
18 personnel shall receive at least one hour of suicide awareness and
19 prevention training each year. This training shall be provided within the
20 framework of existing inservice training programs offered by the State
21 Department of Education or as part of required professional development
22 activities.

23 (b) ~~(2)~~ The department, in consultation with organizations
24 including, but not limited to, the Nebraska State Suicide Prevention
25 Coalition, the Nebraska chapter of the American Foundation for Suicide
26 Prevention, the Behavioral Health Education Center of Nebraska, the
27 National Alliance on Mental Illness Nebraska, and other organizations and
28 professionals with expertise in suicide prevention, shall develop a list
29 of approved training materials to fulfill the requirements of subsection
30 (1) of this section. Such materials shall include training on how to
31 identify appropriate mental health services, both within the school and

1 also within the larger community, and when and how to refer youth and
2 their families to those services. Such materials may include programs
3 that can be completed through self-review of suitable suicide prevention
4 materials.

5 (2)(a) Prior to the end of school year 2024-25, each school district
6 shall ensure that administrators, teachers, paraprofessionals, school
7 nurses, and counselors receive behavioral awareness and intervention
8 training. Each school district may provide such training, or similar
9 training, to any other school employees at the discretion of the school
10 district. In addition, all school employees shall have a basic awareness
11 of the goals, strategies, and schoolwide plans included in such training.

12 (b) Beginning in school year 2021-22, each school district shall
13 offer behavioral awareness and intervention training annually.
14 Administrators, teachers, paraprofessionals, school nurses, and
15 counselors who have received such training from the school district in
16 which they are employed shall receive a behavioral awareness and
17 intervention training review at least once every three years.

18 (c) Any protections and defenses found in the Student Discipline Act
19 shall not be made contingent on whether or not an employee of a school
20 district has completed behavioral awareness and intervention training.

21 (d) Behavioral awareness and intervention training shall include,
22 but not be limited to, evidence-based training on a continuum that
23 includes:

24 (i) Recognition of detrimental factors impacting student behavior,
25 including, but not limited to, signs of trauma;

26 (ii) Positive behavior support and proactive teaching strategies,
27 including, but not limited to, expectations and boundaries;

28 (iii) Verbal intervention and de-escalation techniques;

29 (iv) Clear guidelines on removing students from and returning
30 students to a class;

31 (v) Behavioral interventions and supports that will take place when

1 a student has been removed from a class; and

2 (vi) Physical intervention for safety.

3 (e) In addition to the requirements contained in subdivision (2)(d)
4 of this section, behavioral awareness and intervention training shall be
5 consistent with the Student Discipline Act, include an awareness of the
6 protections for school personnel found in the act, include an awareness
7 of the requirement for written consent of a parent or guardian pursuant
8 to section 79-258, and include the identification and role of each
9 employee designated as the behavioral awareness and intervention point of
10 contact.

11 (3)(a) Each school district shall designate one or more school
12 employees as a behavioral awareness and intervention point of contact for
13 each school building or other division as determined by such school
14 district. Each behavioral awareness and intervention point of contact
15 shall be trained in behavioral awareness and intervention and shall have
16 knowledge of community service providers and other resources that are
17 available for the students and families in such school district.

18 (b) Each school district shall maintain or have access to an
19 existing registry of local mental health and counseling resources. The
20 registry shall include resource services that can be accessed by families
21 and individuals outside of school. Each behavioral awareness and
22 intervention point of contact shall coordinate access to support services
23 for students whenever possible. Except as provided in section 43-2101, if
24 information for an external support service is provided to an individual
25 student, school personnel shall notify a parent or guardian of such
26 student in writing unless such recommendation involves law enforcement or
27 child protective services. Each school district shall indicate each
28 behavioral awareness and intervention point of contact for such school
29 district on the web site of the school district and in any school
30 directory for the school that the behavioral awareness and intervention
31 point of contact serves.

1 (4)(a) On or before September 1, 2021, and on or before September 1
2 of each year thereafter, each school district shall submit a behavioral
3 awareness and intervention training report to the state school security
4 director. Such report shall include the school district behavioral
5 awareness and intervention training plan, summarize how such plan
6 fulfills the requirements of this section, and provide any other
7 information required by rules and regulations adopted and promulgated
8 pursuant to subsection (5) of this section.

9 (b) Behavioral awareness and intervention training required pursuant
10 to this section shall be funded from the Behavioral Training Cash Fund
11 pursuant to section 6 of this act. Any school district that fails to file
12 the behavioral awareness and intervention training report required
13 pursuant to subdivision (4)(a) of this section with the state school
14 security director or that is found to be in noncompliance with the
15 requirements of this section shall not receive behavioral awareness and
16 intervention training funding pursuant to section 6 of this act for such
17 school year.

18 (c) On or before October 31, 2021, and each October 31 thereafter,
19 the state school security director shall certify the compliance or
20 noncompliance with the requirements of this section of each school
21 district to the State Department of Education.

22 (5) ~~(3)~~ The department may adopt and promulgate rules and
23 regulations to carry out this section.

24 Sec. 5. Section 79-1001, Revised Statutes Cumulative Supplement,
25 2018, is amended to read:

26 79-1001 Sections 79-1001 to 79-1033 and section 6 of this act shall
27 be known and may be cited as the Tax Equity and Educational Opportunities
28 Support Act.

29 Sec. 6. (1) For school fiscal year 2021-22 and each school fiscal
30 year thereafter, except as provided in subsection (6) of this section,
31 using data from the fall personnel report filed pursuant to section

1 79-804 for the immediately preceding school fiscal year, each school
2 district shall receive behavioral training funding paid from the
3 Behavioral Training Cash Fund for each school within such school district
4 that has any grade above kindergarten, including, but not limited to, a
5 special education school, an alternative school, or a focus school.

6 (2) The behavioral training funding for each school described in
7 subsection (1) of this section shall equal the base training
8 reimbursement plus any additional training reimbursement units calculated
9 pursuant to this section.

10 (3) The base training reimbursement shall be two thousand dollars.

11 (4) Each school that has a full-time teacher equivalent greater than
12 or equal to eighty teachers shall qualify for additional training
13 reimbursement units as follows:

14 (a) Three additional training reimbursement units for each school
15 with a full-time teacher equivalent greater than or equal to two hundred
16 forty teachers;

17 (b) Two additional training reimbursement units for each school with
18 a full-time teacher equivalent greater than or equal to one hundred sixty
19 teachers but less than two hundred forty teachers; and

20 (c) One additional training reimbursement unit for each school with
21 a full-time teacher equivalent greater than or equal to eighty teachers
22 but less than one hundred sixty teachers.

23 (5) The amount to be paid for each additional training reimbursement
24 unit for each school fiscal year shall equal the ratio of (a) the
25 difference of the amount available for distribution in the Behavioral
26 Training Cash Fund on December 1 immediately preceding such school fiscal
27 year minus the total of the base training reimbursements for all school
28 districts divided by (b) the total additional training reimbursement
29 units for all school districts.

30 (6) For school fiscal year 2021-22, each school district shall
31 qualify for behavioral training funding. For school fiscal year 2022-23

1 and each school fiscal year thereafter, each school district in
2 compliance with the behavioral awareness and intervention training
3 requirements contained in section 79-2,146 as certified by the state
4 school security director is eligible for behavioral training funding.

5 (7) For school fiscal year 2021-22 and each school fiscal year
6 thereafter, the department shall include a behavioral training adjustment
7 in the calculation of formula need pursuant to section 79-1007.11 for
8 each school district which shall be equal to the behavioral training
9 funding to be paid to such school district for such school fiscal year.

10 (8) For school fiscal year 2021-22 and each school fiscal year
11 thereafter, the department shall include the behavioral training funding
12 to be paid for such school fiscal year in the calculation of formula
13 resources pursuant to section 79-1017.01 for each school district.

14 Sec. 7. Section 79-1007.11, Revised Statutes Cumulative Supplement,
15 2018, is amended to read:

16 79-1007.11 ~~(1) Except as otherwise provided in this section, for~~
17 ~~school fiscal years 2013-14 through 2015-16, each school district's~~
18 ~~formula need shall equal the difference of the sum of the school~~
19 ~~district's basic funding, poverty allowance, limited English proficiency~~
20 ~~allowance, focus school and program allowance, summer school allowance,~~
21 ~~special receipts allowance, transportation allowance, elementary site~~
22 ~~allowance, instructional time allowance, teacher education allowance,~~
23 ~~distance education and telecommunications allowance, averaging~~
24 ~~adjustment, new learning community transportation adjustment, student~~
25 ~~growth adjustment, any positive student growth adjustment correction, and~~
26 ~~new school adjustment, minus the sum of the limited English proficiency~~
27 ~~allowance correction, poverty allowance correction, and any negative~~
28 ~~student growth adjustment correction.~~

29 (1) (2) Except as otherwise provided in this section, for school
30 fiscal year 2016-17, each school district's formula need shall equal the
31 difference of the sum of the school district's basic funding, poverty

1 allowance, limited English proficiency allowance, focus school and
2 program allowance, summer school allowance, special receipts allowance,
3 transportation allowance, elementary site allowance, distance education
4 and telecommunications allowance, averaging adjustment, new learning
5 community transportation adjustment, student growth adjustment, any
6 positive student growth adjustment correction, and new school adjustment,
7 minus the sum of the limited English proficiency allowance correction,
8 poverty allowance correction, and any negative student growth adjustment
9 correction.

10 (2) ~~(3)~~ Except as otherwise provided in this section, for school
11 fiscal years 2017-18 and 2018-19, each school district's formula need
12 shall equal the difference of the sum of the school district's basic
13 funding, poverty allowance, poverty allowance adjustment, limited English
14 proficiency allowance, focus school and program allowance, summer school
15 allowance, special receipts allowance, transportation allowance,
16 elementary site allowance, distance education and telecommunications
17 allowance, averaging adjustment, new community achievement plan
18 adjustment, student growth adjustment, any positive student growth
19 adjustment correction, and new school adjustment minus the sum of the
20 limited English proficiency allowance correction, poverty allowance
21 correction, and any negative student growth adjustment correction.

22 (3) ~~(4)~~ Except as otherwise provided in this section, for school
23 fiscal years ~~year~~ 2019-20 and 2020-21 ~~each school fiscal year thereafter~~,
24 each school district's formula need shall equal the difference of the sum
25 of the school district's basic funding, poverty allowance, limited
26 English proficiency allowance, focus school and program allowance, summer
27 school allowance, special receipts allowance, transportation allowance,
28 elementary site allowance, distance education and telecommunications
29 allowance, community achievement plan allowance, averaging adjustment,
30 new community achievement plan adjustment, student growth adjustment, any
31 positive student growth adjustment correction, and new school adjustment

1 minus the sum of the limited English proficiency allowance correction,
2 poverty allowance correction, and any negative student growth adjustment
3 correction.

4 (4) Except as otherwise provided in this section, for school fiscal
5 year 2021-22 and each school fiscal year thereafter, each school
6 district's formula need shall equal the difference of the sum of the
7 school district's basic funding, poverty allowance, limited English
8 proficiency allowance, focus school and program allowance, summer school
9 allowance, special receipts allowance, transportation allowance,
10 elementary site allowance, distance education and telecommunications
11 allowance, community achievement plan allowance, behavioral training
12 adjustment, averaging adjustment, new community achievement plan
13 adjustment, student growth adjustment, any positive student growth
14 adjustment correction, and new school adjustment minus the sum of the
15 limited English proficiency allowance correction, poverty allowance
16 correction, and any negative student growth adjustment correction.

17 (5) If the formula need calculated for a school district pursuant to
18 subsections (1) through (4) of this section is less than one hundred
19 percent of the formula need for such district for the school fiscal year
20 immediately preceding the school fiscal year for which aid is being
21 calculated, the formula need for such district shall equal one hundred
22 percent of the formula need for such district for the school fiscal year
23 immediately preceding the school fiscal year for which aid is being
24 calculated.

25 (6) If the formula need calculated for a school district pursuant to
26 subsections (1) through (4) of this section is more than one hundred
27 twelve percent of the formula need for such district for the school
28 fiscal year immediately preceding the school fiscal year for which aid is
29 being calculated, the formula need for such district shall equal one
30 hundred twelve percent of the formula need for such district for the
31 school fiscal year immediately preceding the school fiscal year for which

1 aid is being calculated, except that the formula need shall not be
2 reduced pursuant to this subsection for any district receiving a student
3 growth adjustment for the school fiscal year for which aid is being
4 calculated.

5 (7) For purposes of subsections (5) and (6) of this section, the
6 formula need for the school fiscal year immediately preceding the school
7 fiscal year for which aid is being calculated shall be the formula need
8 used in the final calculation of aid pursuant to section 79-1065 and for
9 districts that were affected by a reorganization with an effective date
10 in the calendar year preceding the calendar year in which aid is
11 certified for the school fiscal year for which aid is being calculated,
12 the formula need for the school fiscal year immediately preceding the
13 school fiscal year for which aid is being calculated shall be attributed
14 to the affected school districts based on information provided to the
15 department by the school districts or proportionally based on the
16 adjusted valuation transferred if sufficient information has not been
17 provided to the department.

18 Sec. 8. Section 79-1017.01, Revised Statutes Supplement, 2019, is
19 amended to read:

20 79-1017.01 For state aid calculated for each school fiscal year,
21 local system formula resources includes other actual receipts determined
22 pursuant to section 79-1018.01, net option funding determined pursuant to
23 section 79-1009, allocated income tax funds determined pursuant to
24 section 79-1005.01, ~~and~~ community achievement plan aid determined
25 pursuant to section 79-1005, and, beginning in school fiscal year
26 2021-22, behavioral training funding, and is reduced by amounts paid by
27 the district in the most recently available complete data year as
28 property tax refunds pursuant to or in the manner prescribed by section
29 77-1736.06.

30 Sec. 9. Original section 79-2,146, Reissue Revised Statutes of
31 Nebraska, sections 9-812, 79-2,144, 79-1001, and 79-1007.11, Revised

- 1 Statutes Cumulative Supplement, 2018, and section 79-1017.01, Revised
- 2 Statutes Supplement, 2019, are repealed.