

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 177

Introduced by Erdman, 47.

Read first time January 09, 2023

Committee: Education

- 1 A BILL FOR AN ACT relating to school funding; to adopt the My Student, My
- 2 Choice Act; and to provide an operative date.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 14 of this act shall be known and may be
2 cited as the My Student, My Choice Act.

3 Sec. 2. Because parents and legal guardians have the right to
4 educate their children in an environment that reflects their own values,
5 the State of Nebraska shall provide for the education of students
6 attending kindergarten through twelfth grade who are legal residents of
7 this state in a way which protects that right, provided that such
8 students are enrolled in a public or private school in the state.

9 Sec. 3. For purposes of the My Student, My Choice Act:

10 (1) Adjusted average per pupil cost of the preceding year has the
11 same meaning as in section 79-1114;

12 (2) Enrolled student means a student enrolled in either a private
13 school or public school;

14 (3) Private school means a private, denominational, or parochial
15 elementary or secondary school in this state; and

16 (4) Public school means any public elementary or secondary school in
17 this state.

18 Sec. 4. (1) No later than September 1 of each year, the State
19 Department of Education shall provide the Governor, the chairperson of
20 the Appropriations Committee of the Legislature, the State Treasurer, and
21 each school board with:

22 (a) The adjusted average per pupil cost of the preceding year; and

23 (b) The total number of enrolled students for the previous year.

24 (2) The State Department of Education shall post the information
25 described in subsection (1) of this section on the department's website
26 no later than September 1 of each year.

27 Sec. 5. (1) There is hereby created the Follow the Student Fund.
28 The fund shall be administered by the State Treasurer. Any money in the
29 fund available for investment shall be invested by the state investment
30 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
31 State Funds Investment Act.

1 (2) Each year the State Treasurer shall use the information provided
2 pursuant to section 4 of this act to transfer an amount equal to fifty-
3 five percent of the adjusted average per pupil cost of the preceding year
4 multiplied by the total number of enrolled students in the preceding year
5 from the General Fund to the Follow the Student Fund.

6 (3) The State Treasurer shall establish a separate student account
7 for each enrolled student in the State of Nebraska as provided in section
8 6 of this act. Each year the State Treasurer shall equally distribute the
9 money in the Follow the Student Fund into the student accounts. Such
10 student accounts shall be made available for viewing by the enrolled
11 student's parent or legal guardian, or by the enrolled student if he or
12 she is nineteen years of age or older or an emancipated minor.

13 Sec. 6. (1) Each year the parent or legal guardian of an enrolled
14 student, or the enrolled student if he or she is nineteen years of age or
15 older or an emancipated minor, must apply for a student account with the
16 State Treasurer before any money may be distributed into such account.
17 The State Treasurer shall make an application available on the State
18 Treasurer's website and in paper form at each public school. For enrolled
19 students attending a private school, the application for a student
20 account shall be voluntary.

21 (2) Applications must be submitted by August 15 in order to receive
22 money for the fall semester. The State Treasurer may grant an extension
23 upon request, but such extension shall not extend beyond September 1.

24 (3) Applications must be submitted by January 15 in order to receive
25 money for the spring semester. The State Treasurer may grant an extension
26 upon request, but such extension shall not extend beyond February 1.

27 Sec. 7. (1) The parent or legal guardian of an enrolled student, or
28 the enrolled student if he or she is nineteen years of age or older or an
29 emancipated minor, may withdraw money from the enrolled student's student
30 account. Such money shall only be used to pay for tuition, school fees,
31 textbooks, a tutor, a proctor, a private teacher, curriculum, an online

1 learning program, a national norm-referenced examination, an advanced
2 placement examination, an examination required for college admission,
3 educational services for students with disabilities, tuition for courses
4 offered for high school credit through colleges or universities, tuition
5 for courses offered for credit at an accredited college or university,
6 educational computer software, educational software subscriptions, a
7 personal computer or tablet, a calculator, a school uniform, or other
8 supplemental education or teaching resources.

9 (2) The money in a student account is nontransferable and shall be
10 used exclusively to pay for the educational expenses of the enrolled
11 student to whom the account belongs.

12 Sec. 8. The State Treasurer shall deposit money into student
13 accounts at the beginning of each semester. Unused funds which remain in
14 a student account on August 1 of any year shall be transferred to the
15 Cash Reserve Fund.

16 Sec. 9. (1) The parent or legal guardian of an enrolled student, or
17 the enrolled student if he or she is nineteen years of age or older or an
18 emancipated minor, shall make a payment from his or her student account
19 to the public school or private school where the student is enrolled by
20 September 5 of each year for the fall semester and by February 5 of each
21 year for the spring semester. Failure to make payment by the deadline may
22 result in a late fee or expulsion from the school.

23 (2) A student who transfers to a public school during a semester
24 shall not be required to make a payment to the new public school from his
25 or her student account until the start of the next semester.

26 (3) No private school shall be required to refund any amount already
27 paid to the school from a student account if an enrolled student
28 transfers to another school.

29 Sec. 10. The State Treasurer shall issue a smart card to the parent
30 or legal guardian of the enrolled student, or to the enrolled student if
31 he or she is nineteen years of age or older or an emancipated minor, for

1 purposes of withdrawing money from the enrolled student's student
2 account. The State Treasurer may require receipts to verify that the
3 money was used to pay for educational purposes as described in section 7
4 of this act.

5 Sec. 11. The State of Nebraska shall not withhold any money from a
6 private school or in any way penalize a private school on the basis that
7 such school refuses to change its curriculum, its statement of faith, or
8 its policies in order to comply with state standards.

9 Sec. 12. (1) In order to prevent fraud and theft from student
10 accounts, the State Treasurer shall monitor student accounts, investigate
11 suspicious activity, and conduct random audits of student accounts.
12 Whenever the State Treasurer determines that money from a student account
13 has been used for noneducational purposes, the State Treasurer shall
14 conduct an interview with the parent or guardian of the enrolled student,
15 or with the enrolled student if he or she is nineteen years of age or
16 older or an emancipated minor, and with any other person suspected of
17 committing an act of fraud or theft.

18 (2) If the State Treasurer determines that an act of fraud or theft
19 has been committed, the offense shall be reported to the Nebraska State
20 Patrol for investigation. If the Nebraska State Patrol determines that a
21 crime has been committed, the offender shall be charged with the
22 appropriate offense under Nebraska law. In addition, the offender shall
23 be required to pay restitution for the amount taken, and such money shall
24 be deposited into the student account from which it was taken.

25 Sec. 13. (1) Each school district may levy a property tax on the
26 taxable property within the district sufficient to generate revenue equal
27 to forty-five percent of the adjusted average per pupil cost of the
28 preceding year multiplied by the total number of students enrolled in the
29 district during such year to cover the operational costs of the school
30 district for the ensuing school year, and may do so without holding a
31 public hearing. This property tax shall be known as the common school

1 tax, and revenue generated from such tax shall be used exclusively to
2 fund the operational costs of the school district which levied the tax.

3 (2) Whenever a school board determines that additional revenue is
4 needed for the operational costs of the school district, a public hearing
5 shall be held and such hearing shall take place during the month of July.
6 The school board shall announce the date and time of the hearing no fewer
7 than ten days prior to the date of the hearing by posting notice of the
8 hearing on the main page of the school district's website. No such
9 hearing shall begin prior to 9:00 a.m. The hearing shall be open to the
10 public, and the agenda for the hearing shall include a reasonable amount
11 of time for comments and questions from the public. After the hearing,
12 the school board may request an increase in revenue, but no such increase
13 shall ever exceed two and one-half percent of the amount described in
14 subsection (1) of this section.

15 Sec. 14. (1) There is hereby created the School Stabilization Fund.
16 The fund shall be administered by the State Treasurer. Any money in the
17 fund 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 (2) The State Treasurer shall transfer money from the General Fund
21 to the School Stabilization Fund each year in order to equalize funding
22 to the public schools. The balance of the School Stabilization Fund shall
23 not exceed thirty-five percent of the balance of the Follow the Student
24 Fund. If the balance of the School Stabilization Fund exceeds such
25 amount, the State Treasurer shall transfer the excess to the Cash Reserve
26 Fund.

27 (3) Money in the School Stabilization Fund shall be distributed
28 according to the Tax Equity and Educational Opportunities Support Act.

29 Sec. 15. This act becomes operative on August 1, 2025.