

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 821

Introduced by Blood, 3.

Read first time January 03, 2024

Committee: Education

- 1 A BILL FOR AN ACT relating to students; to amend section 79-215, Revised
2 Statutes Cumulative Supplement, 2022; to change provisions relating
3 to the preliminary enrollment in a school district by children of
4 military families; to require any preliminary or advanced enrollment
5 provisions of a school district apply to students with an
6 individualized education program or students that receive special
7 education as prescribed; and to repeal the original section.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-215, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 79-215 (1) Except as otherwise provided in this section, a student
4 is a resident of the school district where he or she resides and shall be
5 admitted to any such school district upon request without charge.

6 (2) A school board shall admit a student upon request without charge
7 if at least one of the student's parents resides in the school district.

8 (3) A school board shall admit any homeless student upon request
9 without charge if the district is the district in which the student (a)
10 is currently located, (b) attended when permanently housed, or (c) was
11 last enrolled.

12 (4) A school board may allow a student whose residency in the
13 district ceases during a school year to continue attending school in such
14 district for the remainder of that school year.

15 (5) A school board may admit nonresident students to the school
16 district pursuant to a contract with the district where the student is a
17 resident and shall collect tuition pursuant to the contract.

18 (6) A school board may admit nonresident students to the school
19 district pursuant to the enrollment option program as authorized by
20 sections 79-232 to 79-246, and such admission shall be without charge.

21 (7) In order to carry out the provisions of section 79-2201, a
22 school board shall permit children of military families to enroll
23 preliminarily in a school district if a parent presents evidence of
24 military orders that the military family will be stationed in this state
25 during the current or following school year. Such preliminary enrollment
26 and any advanced enrollment policies related to a child of a military
27 family shall also apply if such child has an individualized education
28 program under the federal Individuals with Disabilities Education Act, 20
29 U.S.C. 1400 et seq., receives special accommodations or services under
30 Section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. 794, or
31 receives special education as defined in section 79-1125. A student of a

1 military family shall be admitted to the school district without charge
2 upon arrival in Nebraska if the requirements of this section are met.

3 (8) A school board may admit a student who is a resident of another
4 state to the school district and collect tuition in advance at a rate
5 determined by the school board.

6 (9) When a student as a ward of the state or as a ward of any court
7 (a) has been placed in a school district other than the district in which
8 he or she resided at the time he or she became a ward and such ward does
9 not reside in a foster family home licensed or approved by the Department
10 of Health and Human Services or a foster home maintained or used pursuant
11 to section 83-108.04 or (b) has been placed in any institution which
12 maintains a special education program which has been approved by the
13 State Department of Education and such institution is not owned or
14 operated by the district in which he or she resided at the time he or she
15 became a ward, the cost of his or her education and the required
16 transportation costs associated with the student's education shall be
17 paid by the state, but not in advance, to the receiving school district
18 or approved institution under rules and regulations prescribed by the
19 Department of Health and Human Services and the student shall remain a
20 resident of the district in which he or she resided at the time he or she
21 became a ward. Any student who is a ward of the state or a ward of any
22 court who resides in a foster family home licensed or approved by the
23 Department of Health and Human Services or a foster home maintained or
24 used pursuant to section 83-108.04 shall be deemed a resident of the
25 district in which he or she resided at the time he or she became a foster
26 child, unless it is determined under section 43-1311 or 43-1312 that he
27 or she will not attend such district in which case he or she shall be
28 deemed a resident of the district in which the foster family home or
29 foster home is located.

30 (10)(a) When a student is not a ward of the state or a ward of any
31 court and is residing in a residential setting located in Nebraska for

1 reasons other than to receive an education and the residential setting is
2 operated by a service provider which is certified or licensed by the
3 Department of Health and Human Services or is enrolled in the medical
4 assistance program established pursuant to the Medical Assistance Act and
5 Title XIX or XXI of the federal Social Security Act, as amended, the
6 student shall remain a resident of the district in which he or she
7 resided immediately prior to residing in such residential setting. The
8 resident district for a student who is not a ward of the state or a ward
9 of any court does not change when the student moves from one residential
10 setting to another.

11 (b) If a student is residing in a residential setting as described
12 in subdivision (10)(a) of this section and such residential setting does
13 not maintain an interim-program school as defined in section 79-1119.01
14 or an approved or accredited school, the resident school district shall
15 contract with the district in which such residential setting is located
16 for the provision of all educational services, including all special
17 education services and support services as defined in section 79-1125.01,
18 unless a parent or guardian and the resident school district agree that
19 an appropriate education will be provided by the resident school district
20 while the student is residing in such residential setting. If the
21 resident school district is required to contract, the district in which
22 such residential setting is located shall contract with the resident
23 district and provide all educational services, including all special
24 education services, to the student. If the two districts cannot agree on
25 the amount of the contract, the State Department of Education shall
26 determine the amount to be paid by the resident district to the district
27 in which such residential setting is located based on the needs of the
28 student, approved special education rates, the department's general
29 experience with special education budgets, and the cost per student in
30 the district in which such residential setting is located. Once the
31 contract has been entered into, all legal responsibility for special

1 education and related services shall be transferred to the school
2 district in which the residential setting is located.

3 (c) If a student is residing in a residential setting as described
4 in subdivision (10)(a) of this section and such residential setting
5 maintains an interim-program school as defined in section 79-1119.01 or
6 an approved or accredited school, the department shall reimburse such
7 residential setting for the provision of all educational services,
8 including all special education services and support services, with the
9 amount of payment for all educational services determined pursuant to the
10 average per pupil cost of the service agency as defined in section
11 79-1116. The resident school district shall retain responsibility for
12 such student's individualized education program plan, if any. The
13 educational services may be provided through (i) such interim-program
14 school or approved or accredited school, (ii) a contract between the
15 residential setting and the school district in which such residential
16 setting is located, (iii) a contract between the residential setting and
17 another service agency as defined in section 79-1124, or (iv) a
18 combination of such educational service providers.

19 (d) If a school district pays a school district in which a
20 residential setting is located for educational services provided pursuant
21 to subdivision (10)(b) of this section and it is later determined that a
22 different school district was the resident school district for such
23 student at the time such educational services were provided, the school
24 district that was later determined to be the resident school district
25 shall reimburse the school district that initially paid for the
26 educational services one hundred ten percent of the amount paid.

27 (e) A student residing in a residential setting described in this
28 subsection shall be defined as a student with a handicap pursuant to
29 Article VII, section 11, of the Constitution of Nebraska, and as such the
30 state and any political subdivision may contract with institutions not
31 wholly owned or controlled by the state or any political subdivision to

1 provide the educational services to the student if such educational
2 services are nonsectarian in nature.

3 (11) A school board shall ensure that any preliminary or advanced
4 enrollment policies of a school district that apply to a student
5 enrolling in such school also apply to a student enrolling in such school
6 that has an individualized education program under the federal
7 Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.,
8 receives special accommodations or services under Section 504 of the
9 federal Rehabilitation Act of 1973, 29 U.S.C. 794, or receives special
10 education as defined in section 79-1125.

11 (12) ~~(11)~~ In the case of any individual eighteen years of age or
12 younger who is a ward of the state or any court and who is placed in a
13 county detention home established under section 43-2,110, the cost of his
14 or her education shall be paid by the state, regardless of the district
15 in which he or she resided at the time he or she became a ward, to the
16 agency or institution which: (a) Is selected by the county board with
17 jurisdiction over such detention home; (b) has agreed or contracted with
18 such county board to provide educational services; and (c) has been
19 approved by the State Department of Education pursuant to rules and
20 regulations prescribed by the State Board of Education.

21 (13) ~~(12)~~ No tuition shall be charged for students who may be by law
22 allowed to attend the school without charge.

23 (14) ~~(13)~~ The State Department of Education shall establish
24 procedures and criteria for collecting enrollment, admission, and related
25 information needed for any student to attend a school district in this
26 state which shall include, but not be limited to, having an adult with
27 legal or actual charge or control of a student provide through electronic
28 means or other means specified by the department the name of the student,
29 the name of the adult with legal or actual charge or control of the
30 student, the address where the student is or will be residing, and
31 information on how and where the adult may generally be reached during

1 the school day.

2 (15) ~~(14)~~ The department may adopt and promulgate rules and
3 regulations to carry out the provisions of this section.

4 Sec. 2. Original section 79-215, Revised Statutes Cumulative
5 Supplement, 2022, is repealed.