

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 1141**

Introduced by Schimek, 27.

Read first time January 23, 2008

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend section 79-1601, Reissue  
2 Revised Statutes of Nebraska; to provide for evaluation  
3 of students in schools which elect not to meet state  
4 accreditation or approval requirements; to harmonize  
5 provisions; and to repeal the original section.  
6 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 79-1601, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   79-1601 (1) Except as provided in subsections (2) through  
4 (6) of this section, all private, denominational, and parochial  
5 schools in the State of Nebraska and all teachers employed or  
6 giving instruction in such schools shall be subject to and governed  
7 by the provisions of the general school laws of the state so far  
8 as the same apply to grades, qualifications, and certification of  
9 teachers and promotion of pupils. All private, denominational, and  
10 parochial schools shall have adequate equipment and supplies, shall  
11 be graded the same, and shall have courses of study for each grade  
12 conducted in such schools substantially the same as those given in  
13 the public schools where the children attending would attend in the  
14 absence of such private, denominational, or parochial schools.

15                   (2) All private, denominational, or parochial schools  
16 shall either comply with the accreditation or approval requirements  
17 prescribed in section 79-318 or, for those schools which elect not  
18 to meet accreditation or approval requirements, the requirements  
19 prescribed in section 79-318 and subsections (2) through (6)  
20 of this section. Standards and procedures for approval and  
21 accreditation shall be based upon the program of studies, guidance  
22 services, the number and preparation of teachers in relation to the  
23 curriculum and enrollment, instructional materials and equipment,  
24 science facilities and equipment, library facilities and materials,  
25 and health and safety factors in buildings and grounds. Rules

1 and regulations which govern standards and procedures for private,  
2 denominational, and parochial schools which elect, pursuant to  
3 the procedures prescribed in subsections (2) through (6) of this  
4 section, not to meet state accreditation or approval requirements  
5 shall be based upon evidence that such schools offer a program  
6 of instruction leading to the acquisition of basic skills in  
7 the language arts, mathematics, science, social studies, and  
8 health. Such rules and regulations may include a provision for  
9 the visitation of such schools ~~and regular achievement testing~~  
10 ~~of students attending such schools~~ in order to insure that such  
11 schools are offering instruction in the basic skills listed in  
12 this subsection. Any arrangements for visitation ~~or testing~~ shall  
13 be made through a parent representative of each such school.  
14 Evaluations of student achievement for such schools shall be  
15 conducted as provided in sections 2 and 3 of this act. The results  
16 of such ~~testing~~ evaluation may be used as evidence that such  
17 schools are offering instruction in ~~such~~ basic skills, ~~but shall~~  
18 ~~not be used to measure, compare, or evaluate the competency of~~  
19 ~~students at such schools.~~

20 (3) The provisions of subsections (3) through (6) of  
21 this section shall apply to any private, denominational, or  
22 parochial school in the State of Nebraska which elects not  
23 to meet state accreditation or approval requirements. Elections  
24 pursuant to such subsections shall be effective when a statement  
25 is received and approved by the Commissioner of Education and

1 signed by the parents or legal guardians of all children attending  
2 such private, denominational, or parochial school, stating that  
3 (a) either specifically (i) the requirements for approval and  
4 accreditation required by law and the rules and regulations adopted  
5 and promulgated by the State Board of Education violate sincerely  
6 held religious beliefs of the parents or legal guardians or (ii)  
7 the requirements for approval and accreditation required by law  
8 and the rules and regulations adopted and promulgated by the  
9 State Board of Education interfere with the decisions of the  
10 parents or legal guardians in directing their child's education,  
11 (b) an authorized representative of such parents or legal guardians  
12 will at least annually submit to the Commissioner of Education  
13 the information necessary to prove that the requirements of  
14 subdivisions (4)(a) through (c) of this section are satisfied,  
15 (c) the school offers the courses of instruction required by  
16 subsections (2), (3), and (4) of this section, and (d) the parents  
17 or legal guardians have satisfied themselves that individuals  
18 monitoring instruction at such school are qualified to monitor  
19 instruction in the basic skills as required by subsections (2),  
20 (3), and (4) of this section and that such individuals have  
21 demonstrated an alternative competency to monitor instruction or  
22 supervise children pursuant to subsections (3) through (6) of this  
23 section.

24 (4) Each such private, denominational, or parochial  
25 school shall (a) meet minimum requirements relating to health,

1 fire, and safety standards prescribed by state law and the rules  
2 and regulations of the State Fire Marshal, (b) report annual  
3 attendance to the State Department of Education pursuant to section  
4 79-201, (c) maintain a sequential program of instruction designed  
5 to lead to basic skills in the language arts, mathematics, science,  
6 social studies, and health, and (d) comply with the immunization  
7 requirements in section 79-217 if the statement signed by the  
8 parents or legal guardians indicate a nonreligious reason pursuant  
9 to subdivision (3)(a)(ii) of this section for the student attending  
10 a private, denominational, or parochial school which elects not to  
11 meet state accreditation or approval requirements. The State Board  
12 of Education shall establish procedures for receiving information  
13 and reports required by subsections (3) through (6) of this section  
14 from authorized parent representatives who may act as agents for  
15 parents or legal guardians of students attending such school and  
16 for individuals monitoring instruction in the basic skills required  
17 by subsections (2), (3), and (4) of this section.

18 (5) Individuals employed by schools which elect not  
19 to meet state accreditation or approval requirements shall not  
20 be required to meet the certification requirements prescribed in  
21 sections 79-801 to 79-815 but shall either (a) take appropriate  
22 subject matter components of a nationally recognized teacher  
23 competency examination designated by the State Board of Education  
24 as (i) including the appropriate subject matter areas for purposes  
25 of satisfying the requirements of subsections (3) and (4) of this

1 section and (ii) a nationally recognized examination or (b) offer  
2 evidence of competence to provide instruction in the basic skills  
3 required by subsections (3) and (4) of this section pursuant to  
4 ~~informal~~ methods of evaluation which shall be developed by the  
5 State Board of Education. Such evidence may include educational  
6 transcripts, diplomas, and other information regarding the formal  
7 educational background of such individuals. Information concerning  
8 test results, transcripts, diplomas, and other evidence of formal  
9 education may be transmitted to the State Department of Education  
10 by authorized representatives of parents or legal guardians. The  
11 results of such testing or alternative evaluation of individuals  
12 who monitor the instruction of students attending such schools may  
13 be used as evidence of whether or not such schools are offering  
14 adequate the intended instruction in the basic skills as prescribed  
15 in subsections (2), (3), and (4) of this section but shall not be  
16 used to prohibit any such school from employing such individuals.  
17 Failure of a monitor, who is tested for the purpose of satisfying  
18 in whole or in part the requirements of subsections (3) through (6)  
19 of this section, to attain a score equal to or exceeding both the  
20 state or national average score or rating on appropriate subject  
21 matter components of recognized teacher competency examinations  
22 designated by the State Board of Education may be by itself  
23 sufficient proof that such school does not offer adequate the  
24 intended instruction in the basic skills prescribed in subsections  
25 (3) and (4) of this section.

1           (6) The demonstration of competency to monitor  
2 instruction in a private, denominational, or parochial school  
3 which has elected not to meet state accreditation or approval  
4 requirements shall in no way constitute or be construed to grant a  
5 license, permit, or certificate to teach in the State of Nebraska.  
6 Any school which elects not to meet state accreditation or approval  
7 requirements and does not meet the requirements of subsections  
8 (2) through (6) of this section shall not be deemed a school for  
9 purposes of section 79-201, and the parents or legal guardians of  
10 any children attending such school shall be subject to prosecution  
11 pursuant to such section or any statutes relating to habitual  
12 truancy.

13           Sec. 2. (1) Each child of compulsory education age as  
14 provided in section 79-201 who attends a private, denominational,  
15 or parochial school which elects not to meet state accreditation or  
16 approval requirements pursuant to section 79-1601 shall either (a)  
17 be evaluated annually by a date prescribed by the Commissioner of  
18 Education, using a nationally recognized standardized achievement  
19 evaluation or another assessment tool developed or approved by the  
20 commissioner and chosen by the child's parent or guardian, from a  
21 list of approved evaluations or assessment tools provided by the  
22 department or (b) be evaluated annually in the manner provided  
23 in subsection (7) of this section. The department shall provide  
24 information on the cost of and the administration time required for  
25 each of the approved evaluations. The department shall provide, as

1 part of approval procedures for evaluations to be used under this  
2 section, a mechanism which permits the introduction and approval of  
3 new or alternate methods of educational assessment which meet the  
4 requirements of this section.

5 (2) A child who is at least six years of age and is  
6 attending a private, denominational, or parochial school which  
7 elects not to meet state accreditation or approval requirements  
8 pursuant to section 79-1601 for the first time shall be  
9 administered an evaluation approved by the department or the  
10 commissioner for purposes of obtaining educational baseline data.

11 (3) The Commissioner of Education or the commissioner's  
12 designee which may include, but need not be limited to, a  
13 certificated educator of a school district shall conduct the  
14 evaluations required under this section for children attending  
15 a private, denominational, or parochial school which elects not  
16 to meet state accreditation or approval requirements pursuant to  
17 section 79-1601. Evaluation shall occur at a time and a place  
18 to be determined by the commissioner or designee responsible for  
19 conducting the evaluation. The commissioner or designee conducting  
20 the evaluations shall make every reasonable effort to conduct  
21 them at times and places which are convenient for the parents or  
22 guardians and the children being evaluated.

23 (4) The parent or guardian of a child being evaluated  
24 under this section may be present when the child is evaluated,  
25 but only if both the parent or guardian and the child are under



1 the supervision of the commissioner or designee conducting the  
2 evaluation.

3 (5) The conduct of evaluations pursuant to this section  
4 shall include, but not be limited to, purchasing evaluation  
5 materials, conducting the evaluations, scoring and interpreting  
6 the evaluations, and reporting the evaluation results.

7 (6) The parent or guardian of a child being evaluated  
8 under this section shall reimburse the department for conducting  
9 the evaluation for no more than the actual cost of the evaluation.

10 (7)(a) In lieu of annual achievement evaluations, a  
11 parent or guardian of a child required to be evaluated under this  
12 section may submit, as evidence of adequate academic progress, all  
13 of the following:

14 (i) A book of lesson plans, a diary, or other written  
15 record indicating the subjects taught and activities in which the  
16 child has been engaged;

17 (ii) A portfolio of the child's work, including, but  
18 not limited to, an outline of the curriculum used by the child,  
19 copies of homework completed in conjunction with the curriculum and  
20 instruction, examples of the student's classroom work, projects,  
21 and copies of evaluations completed by the child which have been  
22 submitted by the parent or guardian; and

23 (iii) Completed assessment evaluations, other than the  
24 annual achievement evaluation, if assessment evaluations are  
25 administered to a pupil by such school or by the parent or

1 guardian.

2 (b) If a parent or guardian submits evidence under  
3 this subsection, the information shall be reviewed by a person  
4 holding a certificate issued under section 79-802 or a certificate  
5 to administer issued under section 79-801 who is selected as  
6 the evaluator by the parent or guardian and approved by the  
7 commissioner. The evaluator shall prepare a report based on a  
8 review of the child's work submitted, which report shall include an  
9 assessment of the child's achievement or academic progress levels,  
10 and submit a copy of the report to the child's parent or guardian,  
11 the school district of residence of the child, and the department.  
12 If the evidence demonstrates, in the evaluator's opinion, that the  
13 child is achieving adequate progress, the report shall create a  
14 presumption that the child is making adequate progress.

15 (8) For purposes of this section and section 3 of the  
16 act, sufficient progress means: (a) For children in all grade  
17 levels, as determined by evaluation scores based on a grade  
18 equivalent measure as determined and approved by the department  
19 covering the areas of reading, mathematics, and language arts,  
20 including writing, (i) having achieved the equivalent of six months  
21 of academic progress and (ii) having evaluation scores equal to  
22 the grade level for which the student is placed according to his  
23 or her age-group peers in the public school system of Nebraska;  
24 and (b) for children above the sixth grade, as determined by  
25 evaluation scores based on a grade equivalent measure as determined

1 and approved by the department covering the areas of reading,  
2 mathematics, and language arts, including writing, science, and  
3 social studies, (i) having achieved the equivalent of six months of  
4 academic progress and (ii) having evaluation scores equal to the  
5 grade level for which the student is placed according to his or her  
6 age-group peers in the public school system of Nebraska.

7           Sec. 3. (1) If the results of the evaluations under  
8 section 2 of this act indicate that the student has failed to  
9 make sufficient progress, the parent or guardian shall cause the  
10 child to be enrolled and attend an accredited public, private,  
11 denominational, or parochial school at the beginning of the next  
12 school year unless (a) before the beginning of the next school  
13 year, the child retakes a different form of the same evaluation  
14 or another evaluation approved by the department and the results  
15 indicate that sufficient progress has been made, (b) the child has  
16 demonstrated sufficient progress in the opinion of an evaluator  
17 approved by the department and as documented in a report under  
18 subsection (7) of section 2 of this act, or (c) the commissioner  
19 or his or her designee grants approval for the student to continue  
20 to attend a private, denominational, or parochial school which  
21 elects not to meet the state accreditation or approval requirements  
22 pursuant to section 79-1601 under a plan for remediation as  
23 determined by the department.

24           (2) A child who is required to attend an accredited  
25 or approved public, private, denominational, or parochial school

1 under this section shall continue attendance at such school until  
2 the child has achieved sufficient progress as determined by the  
3 department.

4           Sec. 4. The State Department of Education may adopt and  
5 promulgate rules and regulations to carry out sections 2 and 3 of  
6 this act.

7           Sec. 5. Original section 79-1601, Reissue Revised  
8 Statutes of Nebraska, is repealed.