

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1153

Introduced by Raikes, 25.

Read first time January 23, 2008

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend sections 79-8,133,
2 79-8,134, 79-8,135, 79-8,136, 79-8,137, 79-8,139,
3 79-8,140, 79-1110, and 79-1157, Reissue Revised Statutes
4 of Nebraska, and section 79-215, Revised Statutes
5 Cumulative Supplement, 2006; to change provisions
6 relating to payment for special education services; to
7 provide duties for the State Board of Education and
8 the State Department of Education; to change provisions
9 relating to the Attracting Excellence to Teaching
10 Program Act and the Special Education Act; to harmonize
11 provisions; and to repeal the original sections.

12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-215, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

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

8 (2) A school board shall admit any homeless student that
9 requests admission without charge.

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

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

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

21 (6) A school board may admit a student who is a resident
22 of another state to the school district and collect tuition in
23 advance at a rate determined by the school board.

24 (7) When a student as a ward of the state or as a ward
25 of any court (a) has been placed in a school district other than

1 the district in which he or she resided at the time he or she
2 became a ward and such ward does not reside in a foster family home
3 licensed or approved by the Department of Health and Human Services
4 or a foster home maintained or used pursuant to section 83-108.04
5 or (b) has been placed in any institution which maintains a special
6 education program which has been approved by the State Department
7 of Education and such institution is not owned or operated by
8 the district in which he or she resided at the time he or she
9 became a ward, the cost of his or her education and the required
10 transportation costs associated with the student's education shall
11 be paid by the state, but not in advance, to the receiving
12 school district or approved institution under rules and regulations
13 prescribed by the Department of Health and Human Services and the
14 student shall remain a resident of the district in which he or
15 she resided at the time he or she became a ward. Any student who
16 is a ward of the state or a ward of any court who resides in a
17 foster family home licensed or approved by the Department of Health
18 and Human Services or a foster home maintained or used pursuant to
19 section 83-108.04 shall be deemed a resident of the district in
20 which the foster family home or foster home is located.

21 (8) When a student is not a ward of the state or
22 a ward of any court and is residing in a residential setting
23 located in Nebraska for reasons other than to receive an education
24 and the residential setting is operated by a service provider
25 which is certified or licensed by the Department of Health and

1 Human Services or is enrolled in the medical assistance program
2 established pursuant to the Medical Assistance Act and Title XIX
3 or XXI of the federal Social Security Act, as amended, the student
4 shall remain a resident of the district in which he or she
5 resided immediately prior to residing in such residential setting.
6 Upon request by a parent or legal guardian, the resident school
7 district shall contract ~~with~~ for the provision of all educational
8 services, including all special education services, with the
9 residential setting, the district in which such residential setting
10 is located, or both, depending on which entity or entities
11 are providing educational services. ~~for the provision of all~~
12 ~~educational services, including all special education services.~~ If
13 the parent or legal guardian has requested that the resident school
14 district contract ~~with the district in which such residential~~
15 ~~setting is located,~~ for the provision of educational services,
16 the district in which such residential setting is located shall
17 ~~contract with the resident district and provide all educational~~
18 ~~services,~~ provide the educational services required by the student
19 that are not lawfully provided by the residential setting,
20 including all special education services, by contract with the
21 resident school district for such services. Contracts between the
22 resident school district and the residential setting shall be
23 based on the approved special education rate. ~~to the student.~~
24 If the two districts cannot agree on the amount of the contract,
25 the State Department of Education shall determine the amount

1 to be paid by the resident district to the district in which
2 such residential setting is located based on the needs of the
3 student, approved special education rates, the department's general
4 experience with special education budgets, and the cost per student
5 in the district in which such residential setting is located. ~~Once~~
6 ~~the contract has been entered into,~~ If the school district in which
7 the residential setting is located is providing the majority of
8 educational services based on the time such services are received
9 by the student, all legal responsibility for special education and
10 related services shall be transferred to the school district in
11 which the residential setting is located once the contract has been
12 entered into, except that a representative from the resident school
13 district shall be included in all individualized education program
14 meetings. If the residential setting is providing the majority of
15 educational services based on the time such services are received
16 by the student, all legal responsibility for special education and
17 related services shall remain with the resident school district,
18 except that a representative from the residential setting shall be
19 included in all individualized education program meetings for such
20 student. The resident district for a student who is not a ward of
21 the state or a ward of any court does not change when the student
22 moves from one residential setting to another.

23 (9) In the case of any individual eighteen years of
24 age or younger who is a ward of the state or any court and who
25 is placed in a county detention home established under section

1 43-2,110, the cost of his or her education shall be paid by the
2 state, regardless of the district in which he or she resided at
3 the time he or she became a ward, to the agency or institution
4 which: (a) Is selected by the county board with jurisdiction over
5 such detention home; (b) has agreed or contracted with such county
6 board to provide educational services; and (c) has been approved by
7 the State Department of Education pursuant to rules and regulations
8 prescribed by the State Board of Education.

9 (10) No tuition shall be charged for students who may be
10 by law allowed to attend the school without charge.

11 (11) On a form prescribed by the State Department of
12 Education, an adult with legal or actual charge or control of a
13 student shall provide the name of the student, the name of the
14 adult with legal or actual charge or control of the student, the
15 address where the student is residing, and the telephone number
16 and address where the adult may generally be reached during the
17 school day. If the student is homeless or if the adult does not
18 have a telephone number and address where he or she may generally
19 be reached during the school day, those parts of the form may be
20 left blank and a box may be marked acknowledging that these are the
21 reasons these parts of the form were left blank. The adult with
22 legal or actual charge or control of the student shall also sign
23 the form.

24 (12) The department shall adopt and promulgate rules and
25 regulations to carry out the department's responsibilities under

1 this section.

2 Sec. 2. Beginning in 2009, the State Department of
3 Education, in cooperation with the teacher education institutions,
4 shall annually conduct a special education teacher recruitment
5 camp focusing on hands-on special education experiences for
6 interested high school students. The department shall conduct an
7 annual advertising campaign to highlight the accomplishments of
8 special education teachers in Nebraska, to advertise the special
9 education teacher recruitment camp, and to advertise the Attracting
10 Excellence to Teaching Program. The department is encouraged
11 to collaborate with and seek financial assistance from other
12 interested organizations for both the special education teacher
13 recruitment camp and the advertising campaign.

14 Sec. 3. Section 79-8,133, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 79-8,133 For purposes of the Attracting Excellence to
17 Teaching Program Act:

18 (1) Department means the State Department of Education;

19 (2) Eligible institution means a not-for-profit college
20 or university which (a) is located in Nebraska, (b) is accredited
21 by the North Central Association of Colleges and Schools, (c) has a
22 teacher education program accredited by the department, and (d) if
23 a privately funded college or university, has not opted out of the
24 act pursuant to rules and regulations;

25 (3) Eligible student means an individual who (a)

1 is a full-time or part-time student, (b) is enrolled in an
2 eligible institution in a an undergraduate or a graduate teacher
3 education program, and (c) if enrolled at a state-funded eligible
4 institution, is a resident student as described in section 85-502
5 or, if enrolled in a privately funded eligible institution, would
6 be deemed a resident student if enrolled in a state-funded eligible
7 institution, and (d) for applicants applying for the first time on
8 or after the effective date of this act, is majoring in a shortage
9 area;

10 (4) Full-time student means, in the aggregate, the
11 equivalent of a student who in a twelve-month period is enrolled
12 in thirty semester credit hours or forty-five quarter credit hours
13 of classroom, laboratory, clinical, practicum, or independent study
14 course work; and

15 (5) Majoring in a shortage area means pursuing a degree
16 which will allow the student to be properly endorsed to teach in a
17 shortage area;

18 (6) Part-time student means, in the aggregate, the
19 equivalent of a student who in a twelve-month period is enrolled in
20 at least nine semester credit hours or twelve quarter credit hours
21 of classroom, laboratory, clinical, practicum, or independent study
22 coursework and who is not a full-time student;

23 (7) Shortage area means a field of teaching for which
24 there is a shortage of properly endorsed teachers as determined by
25 the department; and

1 ~~(5)~~ (8) Teacher education program means a program of
2 study which results in obtaining a bachelor's degree which meets
3 the education requirements for certification pursuant to sections
4 79-806 to 79-815.

5 Sec. 4. Section 79-8,134, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 79-8,134 The Attracting Excellence to Teaching Program is
8 created. The purposes of the program are to:

9 (1) Attract outstanding students to major in shortage
10 areas at the teacher education programs of Nebraska's postsecondary
11 educational institutions;

12 (2) Retain resident students and graduates as teachers
13 in shortage areas in the accredited or approved public and private
14 schools of Nebraska; and

15 (3) Establish a loan contract that requires a borrower to
16 obtain employment as a teacher in a shortage area in this state
17 after graduation.

18 Sec. 5. Section 79-8,135, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 79-8,135 (1) The State Department of Education shall
21 administer the Attracting Excellence to Teaching Program either
22 directly or by contracting with a public or private entity.

23 (2) To be eligible for the program, an eligible student
24 shall:

25 (a) Graduate in the top quarter of his or her high school

1 class or have a minimum cumulative grade-point average of 3.0 on a
2 four-point scale in an eligible institution;

3 (b) Agree to complete a teacher education program at an
4 eligible institution and, for applicants applying for the first
5 time on or after the effective date of this act, agree to complete
6 a major in a shortage area as part of such program; and

7 (c) Commit to teach in an accredited or approved public
8 or private school in Nebraska upon successful completion of a
9 teacher education program at an eligible institution and becoming
10 certified pursuant to sections 79-806 to 79-815 and, for applicants
11 applying for the first time on or after the effective date of this
12 act, commit to teach in a shortage area.

13 (3) Eligible students may apply on an annual basis for
14 loans in an amount of not more than ~~two thousand five hundred~~
15 three thousand dollars per year. ~~Priorities for loans shall be to~~
16 ~~eligible students who are majoring in subject shortage areas as~~
17 ~~defined by the department.~~ Loans awarded to individual students
18 shall not exceed a cumulative period exceeding five consecutive
19 years. Loans shall only be awarded through an eligible institution
20 and shall be funded pursuant to section 79-8,136.

21 Sec. 6. Section 79-8,136, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 79-8,136 The Attracting Excellence to Teaching Program
24 Cash Fund is created. The fund shall consist of appropriations
25 by the Legislature, transfers pursuant to section 9-812, and loan

1 repayments, penalties, and interest payments received in the course
2 of administering the Attracting Excellence to Teaching Program.
3 The department shall allocate on an annual basis the funds to be
4 distributed for the program to all eligible institutions according
5 to the distribution formula as determined by rule and regulation,
6 ~~except that the State Treasurer shall transfer the cash balance~~
7 ~~existing on November 9, 2001, in the fund to the General Fund~~
8 ~~within five days after November 9, 2001.~~ The eligible institutions
9 shall act as agents of the department in the distribution of the
10 funds to eligible students. Any money in the Attracting Excellence
11 to Teaching Program Cash Fund available for investment shall be
12 invested by the state investment officer pursuant to the Nebraska
13 Capital Expansion Act and the Nebraska State Funds Investment Act.

14 Sec. 7. Section 79-8,137, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 79-8,137 (1) Prior to receiving any money from a loan
17 pursuant to the Attracting Excellence to Teaching Program, an
18 eligible student shall enter into a contract with the department.

19 (a) For applicants who applied for the first time prior
20 to the effective date of this act, the ~~The~~ contract shall require
21 that if ~~(a)~~ (i) the borrower is not employed as a teacher in
22 Nebraska for a time period equal to the number of years required
23 for loan forgiveness pursuant to subsection (2) of this section and
24 is not enrolled as a full-time student in a graduate program within
25 six months after obtaining an undergraduate degree for which a loan

1 from the program was obtained or ~~(b)~~ (ii) the borrower does not
2 complete the requirements for graduation within five consecutive
3 years after receiving the initial loan under the program, then
4 the loan must be repaid, with interest at the rate fixed pursuant
5 to section 45-103 accruing as of the date the borrower signed
6 the contract, and an appropriate penalty as determined by the
7 department may be assessed.

8 (b) For applicants who apply for the first time on or
9 after the effective date of this act, the contract shall require
10 that if (i) the borrower is not employed as a teacher in a shortage
11 area in Nebraska for a time period equal to the number of years
12 required for loan forgiveness pursuant to subsection (2) of this
13 section and is not enrolled as a full-time student in a graduate
14 program in a shortage area within six months after obtaining
15 an undergraduate degree for which a loan from the program was
16 obtained or (ii) the borrower does not complete the requirements
17 for graduation within five consecutive years after receiving the
18 initial loan under the program, then the loan must be repaid, with
19 interest at the rate fixed pursuant to section 45-103 accruing as
20 of the date the borrower signed the contract, and an appropriate
21 penalty as determined by the department may be assessed. If a
22 borrower fails to remain enrolled at an eligible institution or
23 otherwise fails to meet the requirements of an eligible student,
24 repayment of the loan shall commence within six months after
25 such change in eligibility. The State Board of Education may by

1 rules and regulations provide for exceptions to the conditions
2 of repayment pursuant to this subsection based upon mitigating
3 circumstances.

4 (2) If the borrower applied for the first time prior
5 to the effective date of this act and (a) successfully completes
6 the teacher education program and becomes certified pursuant to
7 sections 79-806 to 79-815, (b) becomes employed as a teacher
8 in this state within six months of becoming certified, and (c)
9 otherwise meets the requirements of the contract, payments shall
10 be suspended for the number of years that the borrower is required
11 to remain employed as a teacher in this state under the contract.
12 For each year that the borrower teaches in Nebraska pursuant to
13 the contract, payments shall be forgiven in an amount equal to
14 the amount borrowed for one year, except if the borrower teaches
15 in a school district that is ~~at least partially~~ in a local system
16 classified in the very sparse cost grouping as provided in section
17 79-1007.02 or teaches in a school district in which at least forty
18 percent of the formula students qualify for the poverty factor as
19 provided in section 79-1007.01, are poverty students as defined in
20 section 79-1003, payments shall be forgiven each year in an amount
21 equal to the amount borrowed for two years.

22 (3) If the borrower applies for the first time on or
23 after the effective date of this act and (a) successfully completes
24 the teacher education program and becomes certified pursuant to
25 sections 79-806 to 79-815 in a shortage area, (b) becomes employed

1 as a teacher in a shortage area in this state within six months of
2 becoming certified, and (c) otherwise meets the requirements of the
3 contract, payments shall be suspended for the number of years that
4 the borrower is required to remain employed as a teacher in this
5 state under the contract. For each year that the borrower teaches
6 in a shortage area in Nebraska, after the first two years of
7 teaching in such shortage area pursuant to the contract, payments
8 shall be forgiven in an amount equal to the amount borrowed for one
9 year, except if the borrower teaches in a school district that is
10 in a local system classified in the very sparse cost grouping as
11 provided in section 79-1007.02 or teaches in a school district in
12 which at least forty percent of the formula students are poverty
13 students as defined in section 79-1003, payments shall be forgiven
14 each year in an amount equal to the amount borrowed for two years.

15 Sec. 8. Section 79-8,139, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 79-8,139 (1) Each eligible institution shall file an
18 annual report with the department containing such information as
19 required by rule and regulation. On or before ~~November 15 of~~
20 ~~each year,~~ December 31, 2010, and on or before December 31 of
21 each even-numbered year thereafter, the department shall submit
22 a report to the Governor, the Clerk of the Legislature, and the
23 Education Committee of the Legislature ~~providing, at a minimum,~~
24 on the status of the program, the status of the borrowers, and
25 the impact of the program on the number of teachers in shortage

1 areas in Nebraska. The report shall include information on an
2 institution-by-institution basis, ~~and~~ the status of borrowers,
3 and ~~The report shall include~~ a financial statement and with
4 a description of the activity of the Attracting Excellence to
5 Teaching Program Cash Fund.

6 ~~(2) The department shall also provide a report to the~~
7 ~~Governor and the Clerk of the Legislature by December 31, 2005, on~~
8 ~~the status of the program, the status of the borrowers, and the~~
9 ~~impact of the program on the number of teachers in Nebraska.~~

10 ~~(3) (2)~~ Any report pursuant to this section which
11 includes information about borrowers shall exclude confidential
12 information or any other information which specifically identifies
13 a borrower.

14 Sec. 9. Section 79-8,140, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 79-8,140 The State Board of Education shall adopt and
17 promulgate rules and regulations to determine teacher shortage
18 areas and to carry out the Attracting Excellence to Teaching
19 Program Act.

20 Sec. 10. Section 79-1110, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 79-1110 Sections 79-1110 to 79-1178 and section 11 of
23 this act shall be known and may be cited as the Special Education
24 Act.

25 Sec. 11. (1) On or before January 1, 2009, the State

1 Board of Education, in cooperation with any parent training and
2 information centers established under the federal Individuals with
3 Disabilities Education Improvement Act of 2004 as such act existed
4 on January 1, 2008, and located in Nebraska, shall develop a
5 parent guide which describes the basic process for assessment,
6 identification, verification, individualized education programs,
7 complaints, hearings, and mediation. Such guide shall also contain
8 necessary information to allow parents to contact any such centers
9 with questions. Such guide, when printed, shall not exceed the
10 front and back of a single sheet of paper which is eight and
11 one-half inches wide and eleven inches long. The State Department
12 of Education shall provide the guide to school districts in an
13 electronic format that may be printed and copied for parents. The
14 state board shall revise the guide, in cooperation with any such
15 centers, as necessary.

16 (2) Beginning July 1, 2009, each school district shall
17 provide such parent guide in a printed form to the parent or
18 guardian with the request for consent to evaluate a child for
19 initial eligibility for special education services and with each
20 notification of an individualized education program meeting.

21 Sec. 12. Section 79-1157, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 79-1157 All special education programs shall be reviewed
24 by the State Department of Education.

25 To enable the State Department of Education to determine

1 the effectiveness of the programs and services being provided, the
2 department shall conduct a program of continuing evaluations of the
3 different types of programs and services being provided for each of
4 the service groups. In conducting these evaluations, the department
5 shall take into account such factors as numbers and types of
6 children with disabilities, class sizes, qualifications of staff,
7 and other factors which the department deems appropriate. The
8 department shall conduct evaluations of all programs and services
9 and shall conduct these evaluations in such a manner as to enable
10 the department to compare the relative effectiveness of the same or
11 similar programs or services provided in different locations.

12 Evaluation studies shall be designed to provide the
13 Legislature, the State Department of Education, the school
14 districts, and other service agencies with the following
15 information:

16 (1) A detailed description of groups served;

17 (2) A detailed description of the kind of programs or
18 services provided and their cost per unit of service as well as the
19 cost of each service; and

20 (3) A detailed description of the effectiveness of the
21 programs or services; and -

22 (4) The equity of services provided across the state.

23 On or before December 1, 2009, the department shall
24 submit a report to the Clerk of the Legislature and the chairperson
25 of the Education Committee of the Legislature, examining equity

1 in the provision of special education services across the state
2 based on information already provided to the department by school
3 districts, educational service units, parents, and other interested
4 parties. Such report may also contain recommendations for improving
5 equity.

6 On or before December 1, 2013, the department shall
7 submit a second report to the Clerk of the Legislature and
8 the chairperson of the Education Committee of the Legislature,
9 examining equity in the provision of special education services
10 across the state and any changes in equity since the December
11 1, 2009, report was issued. The December 1, 2013, report shall
12 be based on information previously provided to the department by
13 school districts, educational service units, parents, and other
14 interested parties and such other information as deemed lacking
15 in the December 1, 2009, report. Such report may also contain
16 recommendations for improving equity.

17 Sec. 13. Original sections 79-8,133, 79-8,134, 79-8,135,
18 79-8,136, 79-8,137, 79-8,139, 79-8,140, 79-1110, and 79-1157,
19 Reissue Revised Statutes of Nebraska, and section 79-215, Revised
20 Statutes Cumulative Supplement, 2006, are repealed.