

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1021**

Introduced by Avery, 28; Campbell, 25; Rogert, 16.

Read first time January 20, 2010

Committee: Education

A BILL

1 FOR AN ACT relating to school activities; to adopt the High School  
2 Activities Association Act; and to provide an operative  
3 date.  
4 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 15 of this act shall be known  
2 and may be cited as the High School Activities Association Act.

3           Sec. 2. It is the intent of the Legislature to provide  
4 an equitable governing structure by which an association governing  
5 state high school activities shall provide administration,  
6 management, enforcement, and interpretation of public policy  
7 pertaining to high school students. It is the further intent of  
8 the Legislature to compel, as far as possible, the promotion of  
9 ethnic minority, gender, and geographical area representation on  
10 all executive, legislative, and appeals bodies of such association.

11           Sec. 3. For purposes of the High School Activities  
12 Association Act:

13           (1) Activities means sanctioned interscholastic  
14 competitions and contests in the fields of athletics, music, drama,  
15 speech, debate, and journalism;

16           (2) Administrative district means a district created  
17 pursuant to section 8 of this act made up of a group of contiguous  
18 and compact counties organized for the purpose of executing equal  
19 representation of member schools on the executive, legislative, and  
20 appeals bodies of the association;

21           (3) Association means any organization or entity of which  
22 the majority of high schools in the state are members and the  
23 purpose of which is the statewide administration, management, and  
24 enforcement of activities;

25           (4) Association appeals board means a board of five

1 representatives from member schools as provided in section 14 of  
2 this act which shall review rulings and issue final decisions from  
3 a district committee on appeals;

4 (5) Department means the State Department of Education;

5 (6) District committee on appeals means a board of five  
6 representatives from member schools within a given district as  
7 provided in section 13 of this act which shall review rulings and  
8 issue initial decisions on appeals made by individual students or  
9 member schools;

10 (7) Member school means a Nebraska high school which  
11 holds an active paid membership with the association;

12 (8) Nebraska high school means any public high school or  
13 private high school in Nebraska;

14 (9) Public high school means any school under the  
15 jurisdiction of a school board authorized by Chapter 79 which  
16 (a) includes grades nine through twelve and (b) is an active paid  
17 member of the association; and

18 (10) Private high school means any nonpublic school which  
19 (a) includes grades nine through twelve and (b) is an active paid  
20 member of the association.

21 Sec. 4. The association is designated as the governing  
22 nonprofit organization of high school activities in Nebraska high  
23 schools. Public high schools may become voluntary members of the  
24 association for the purpose of participating in interscholastic  
25 competition with other member schools. Private high schools may

1 become voluntary members of the association for the purpose of  
2 participating in interscholastic competition with other member  
3 schools and shall be treated as public schools for purposes of the  
4 High School Activities Association Act.

5           Sec. 5. The association shall work in consultation  
6 and cooperation with the department and the Legislature to  
7 formulate and implement public policy with respect to high school  
8 interscholastic eligibility and competition.

9           Sec. 6. If the association fails to meet the provisions  
10 governed by the High School Activities Association Act, (1) it  
11 shall forfeit its right to do business in the State of Nebraska,  
12 (2) the Attorney General shall institute a proper proceeding to  
13 enforce such forfeiture, and (3) the Commissioner of Education  
14 shall designate, with the approval of a majority of the members  
15 of the State Board of Education, another organization or entity to  
16 govern high school activities in Nebraska. The association shall  
17 forfeit all membership, participation, gate receipts, and other  
18 funds to the department for allocation to the organization or  
19 entity designated pursuant to this section. Any remaining assets  
20 after liquidation and reallocation shall be distributed to member  
21 schools based on the proportion of each member school's students to  
22 the total number of students in member schools statewide, using the  
23 most recent enrollment figures available from the department. The  
24 designated organization or entity shall comply with the provisions  
25 of the act.

1           Sec. 7. The association shall revise, amend, or adopt  
2 provisions in its bylaws or other governing documents to include  
3 the following:

4           (1) Compliance with the Open Meetings Act and sections  
5 84-712 to 84-712.09. All meetings of the association shall be  
6 called in accordance with the Open Meetings Act, and a majority  
7 of members of any governing body within the association shall  
8 constitute a necessary quorum to conduct business. The public shall  
9 be admitted to all meetings of the association except to such  
10 closed sessions as the board may direct in accordance with the act.  
11 The board shall cause to be kept a record of all public meetings  
12 and proceedings of the association. It is not the intent of the  
13 Legislature to make students' medical records, school academic  
14 performance records, association personnel medical records, or  
15 association personnel disciplinary records available for public  
16 review;

17           (2) Provision of thirty days' notice of all meetings  
18 relating to any association business. If a meeting relating to  
19 association business is initiated on specific emergency grounds,  
20 a written explanation shall be made available for public record  
21 within three days;

22           (3) An independent audit prior to December 1 of each  
23 year which includes a comprehensive and clear itemization of income  
24 by source and all expenditures for the previous school year and  
25 providing a copy of such annual audit to the department; and

1           (4) A decennial redistricting plan based on the most  
2 recent federal decennial census administered by the United States  
3 Department of Commerce, Bureau of the Census, which shall include  
4 (a) an evaluation of geographic and demographic composition each  
5 administrative district in the state and (b) a comprehensive  
6 proposal for realigning administrative district boundaries to  
7 satisfy the requirements of subsection (2) of section 8 of this  
8 act and provision of a copy of the redistricting plan to the  
9 Commissioner of Education, not later than two months following  
10 the federal decennial census results, for timely approval. The  
11 association shall adjust administrative district boundaries as  
12 necessary based on such approved redistricting plan.

13           Sec. 8. (1) The association shall operate as a  
14 representative democracy in which sovereign authority rests with  
15 member schools. Except as otherwise provided in the High School  
16 Activities Association Act, the association shall govern its  
17 affairs through its constitution and bylaws and shall make any  
18 exception or waiver to the constitution or bylaws in written form  
19 for public record prior to the effective date of such exception or  
20 waiver except in case of emergency. In case of emergency, a written  
21 explanation shall be made available for public record within three  
22 days after such effective date.

23           (2) The association shall divide the state into six  
24 administrative districts. Such administrative districts shall, to  
25 the extent possible, follow county boundary lines and shall not

1 divide cities of the metropolitan, primary, first, or second class.  
2 If a school district boundary crosses one or more county lines,  
3 the school district shall be considered to be located in the  
4 county in which its headquarters is located. Each administrative  
5 district shall contain an equal or nearly equal number of students  
6 participating in high school activities as the other administrative  
7 districts, within a five percent margin above or below total  
8 projected participating population of students, divided by the  
9 number of districts. The administrative districts shall be equally  
10 represented in number and vote on the association's board of  
11 directors, district managing committee, representative assembly,  
12 district committees on appeals, and association appeals board.

13 (3) Any member school may petition the association  
14 appeals board for transfer into an adjoining administrative  
15 district. The association appeals board shall grant such petition  
16 if the member school can establish just cause for such transfer  
17 and is twenty-five miles or less from the adjoining district  
18 boundary line. Any such transfer shall not cause realignment of  
19 administrative districts in order to satisfy the requirements of  
20 subsection (2) of this section.

21 Sec. 9. Each member school, on its annual application  
22 for membership in the association, shall name its official  
23 representative to the association. A member school's representative  
24 shall be a full-time educator in the member school holding  
25 a Nebraska teacher's or administrator's certificate or such

1 educator's designee who shall also be a full-time educator in  
2 the member school holding a Nebraska teacher's or administrator's  
3 certificate. Each representative or designee shall represent one  
4 vote in any matter properly before the body.

5           Sec. 10. (1) The executive authority of the association  
6 shall be vested in a board of directors elected by the member  
7 schools' representatives. Any full-time educator in a member school  
8 holding a Nebraska teacher's or administrator's certificate is  
9 eligible for membership on the board of directors. The board of  
10 directors shall meet not less than twice per school year. The board  
11 of directors shall include:

12           (a) One elected member from each administrative district,  
13 representing all member schools within such administrative  
14 district;

15           (b) The Commissioner of Education;

16           (c) One member of the State Board of Education, in a  
17 nonvoting, ex officio capacity; and

18           (d) The Speaker of the Legislature or his or her  
19 designee, in a nonvoting, ex officio capacity.

20           (2) In the event of an unexpected vacancy of an elected  
21 member on the board of directors, the executive director of  
22 the association shall make an interim appointment from qualified  
23 applicants residing in the district in which the vacancy occurs.  
24 Such appointment shall be in writing and shall continue for the  
25 remainder of the unexpired term and until a qualified successor



1 is elected during the next term. The written appointment shall be  
2 filed with the office of the commissioner.

3 (3) The board of directors shall appoint and set the  
4 compensation for an executive director of the association and any  
5 necessary administrative staff to carry out the duties of the  
6 association. The term of the executive director shall be three  
7 years and he or she may be reappointed, but no executive director  
8 may serve more than nine consecutive years.

9 (4) The board of directors shall carry out the duties  
10 and responsibilities of the association pursuant to its bylaws,  
11 including the organization and management of a district managing  
12 committee, a representative assembly, district committees on  
13 appeals, and an association appeals board. The board of directors  
14 shall not participate or provide guidance in interpretation of  
15 the constitution or bylaws with respect to any investigation of  
16 an alleged rule violation or a ruling by a district committee on  
17 appeals or the association appeals board made pursuant to an appeal  
18 by a student or a member school.

19 Sec. 11. (1) There shall be six district managing  
20 committees which shall plan and manage interscholastic competitions  
21 and other tasks as outlined in the association's bylaws. Members  
22 of the district managing committees and alternates shall be elected  
23 by the member schools' representatives of each respective district.  
24 Any full-time educator in a member school holding a Nebraska  
25 teacher's or administrator's certificate is eligible for membership

1 on a district managing committee. Members and alternates shall  
2 serve terms of three years and may serve not more than nine  
3 consecutive years. The association's bylaws shall establish a  
4 system of staggered terms to ensure that a majority of members'  
5 terms do not expire concurrently. Each member of a district  
6 managing committee shall represent one vote.

7 (2) Each district managing committee shall meet not less  
8 than twice per school year.

9 Sec. 12. (1) The representative assembly shall establish  
10 policies for regulation of interscholastic competition, shall  
11 review and confirm or reject, by a majority vote of a quorum,  
12 all proposals for changes in the constitution and bylaws of the  
13 association which originate from member schools and are passed by  
14 a majority in its originating administrative district, and shall  
15 carry out other responsibilities determined by the association in  
16 its bylaws. Members of the representative assembly and alternates  
17 shall be elected by the member schools' representatives of each  
18 respective district. Any full-time educator in a member school  
19 holding a Nebraska teacher's or administrator's certificate is  
20 eligible for membership in the representative assembly.

21 (2) Members of the representative assembly and alternates  
22 shall serve terms of three years and may serve not more than  
23 nine consecutive years. The association's bylaws shall establish a  
24 system of staggered terms to ensure that a majority of members'  
25 terms do not expire concurrently.

1           (3) There shall be an equal number of representative  
 2 assembly members from each administrative district. Each member of  
 3 the representative assembly shall represent one vote.

4           (4) The representative assembly shall not meet less than  
 5 twice per school year.

6           Sec. 13. (1) Each administrative district shall have  
 7 one district committee on appeals established by the association.  
 8 Members of each district committee on appeals shall be elected by  
 9 the member schools' representatives of each respective district.  
 10 Any full-time educator in a member school holding a Nebraska  
 11 teacher's or administrator's certificate is eligible for membership  
 12 on a district committee on appeals. A single member of the district  
 13 committee on appeals shall not fill more than one of the seats  
 14 listed in subdivisions (a) through (e) of this subsection. Each  
 15 district committee on appeals shall include:

- 16           (a) One public school representative;
- 17           (b) One private school representative;
- 18           (c) One women's athletics representative;
- 19           (d) One men's athletics representative; and
- 20           (e) One fine arts representative.

21           (2) Members of each district committee on appeals shall  
 22 serve terms of three years and may serve not more than nine  
 23 consecutive years. The association's bylaws shall establish a  
 24 system of staggered terms to ensure that a majority of members'  
 25 terms do not expire concurrently. No member of a district committee

1 on appeals may hold another position in the association.

2 (3) The district committees on appeals may investigate  
3 alleged rule violations in its district and issue penalties and  
4 sanctions when appropriate, may interpret the constitution and  
5 bylaws and issue opinions and rulings when appropriate, and shall  
6 establish an equitable procedure of due process which ensures  
7 each individual student or member school the opportunity to appeal  
8 an unfavorable ruling with regard to a student's eligibility to  
9 compete. Each district committee on appeals shall consider requests  
10 by students or member schools seeking exceptions or waivers to  
11 bylaws and regulations, hear undue-hardship eligibility cases filed  
12 by member schools on behalf of students, and hear appeals filed by  
13 member schools. The initial appeal shall be made to the district  
14 committee on appeals within the administrative district in which  
15 the student resides or the school is located.

16 (4) Each member of the district committee on appeals  
17 shall represent one vote.

18 (5) Each district committee on appeals shall not meet  
19 less than twice each school year.

20 Sec. 14. (1) The association shall establish an  
21 association appeals board. Members of the association appeals  
22 board shall be elected by the member schools' representatives. Any  
23 full-time educator in a member school holding a Nebraska teacher's  
24 or administrator's certificate is eligible for membership on the  
25 association appeals board. A student or a member school that

1 receives an unfavorable ruling from a district committee on appeals  
2 may appeal that decision to the association appeals board at the  
3 next regularly scheduled meeting of the association appeals board.  
4 A single member of the association appeals board shall not fill  
5 more than one of the seats listed in subdivisions (a) through (e)  
6 of this subsection. Membership on the association appeals board  
7 shall include:

8 (a) One public school representative;

9 (b) One private school representative;

10 (c) One women's athletics representative;

11 (d) One men's athletics representative; and

12 (e) One fine arts representative.

13 (2) Members of the association appeals board shall serve  
14 terms of three years and may serve not more than nine consecutive  
15 years. The association's bylaws shall establish a system of  
16 staggered terms to ensure that a majority of members' terms do  
17 not expire concurrently. No member of the association appeals board  
18 may hold another position in the association.

19 (3) The association appeals board may issue a final and  
20 binding decision with respect to interpretation of constitution or  
21 bylaws violations which shall not be subject to further review  
22 within the association, may issue penalties and sanctions, when  
23 appropriate, and may uphold, reverse, or amend the decision of  
24 any district committee on appeals. The decision of the association  
25 appeals board shall be final.

1           (4) Each member of the association appeals board shall  
2 represent one vote.

3           (5) The association appeals board shall not meet less  
4 than twice per school year.

5           Sec. 15. The elected members of the association shall  
6 receive no financial compensation for their services but shall  
7 be reimbursed for their actual and necessary expenses incurred in  
8 attending meetings or in the performance of duties as directed  
9 by the board and provided in the association's constitution and  
10 bylaws.

11           Sec. 16. This act becomes operative on August 1, 2011.