

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 445

Introduced by Adams, 24.

Read first time January 14, 2011

Committee: Education

A BILL

1 FOR AN ACT relating to the Commissioner of Education; to amend
2 sections 79-1044, 79-1047, and 79-1051, Reissue Revised
3 Statutes of Nebraska, and section 79-318, Revised
4 Statutes Cumulative Supplement, 2010; to change and
5 eliminate duties as prescribed; to harmonize provisions;
6 and to repeal the original sections.

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

1 Section 1. Section 79-318, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 79-318 The State Board of Education shall:

4 (1) Appoint and fix the compensation of the Commissioner
5 of Education;

6 (2) Remove the commissioner from office at any time for
7 conviction of any crime involving moral turpitude or felonious act,
8 for inefficiency, or for willful and continuous disregard of his or
9 her duties as commissioner or of the directives of the board;

10 (3) Upon recommendation of the commissioner, appoint and
11 fix the compensation of a deputy commissioner and all professional
12 employees of the board;

13 (4) Organize the State Department of Education into such
14 divisions, branches, or sections as may be necessary or desirable to
15 perform all its proper functions and to render maximum service to the
16 board and to the state school system;

17 (5) Provide, through the commissioner and his or her
18 professional staff, enlightened professional leadership, guidance,
19 and supervision of the state school system, including educational
20 service units. In order that the commissioner and his or her staff
21 may carry out their duties, the board shall, through the
22 commissioner: (a) Provide supervisory and consultation services to
23 the schools of the state; (b) issue materials helpful in the
24 development, maintenance, and improvement of educational facilities
25 and programs; (c) establish rules and regulations which govern

1 standards and procedures for the approval and legal operation of all
2 schools in the state and for the accreditation of all schools
3 requesting state accreditation. All public, private, denominational,
4 or parochial schools shall either comply with the accreditation or
5 approval requirements prescribed in this section and section 79-703
6 or, for those schools which elect not to meet accreditation or
7 approval requirements, the requirements prescribed in subsections (2)
8 through (6) of section 79-1601. Standards and procedures for approval
9 and accreditation shall be based upon the program of studies,
10 guidance services, the number and preparation of teachers in relation
11 to the curriculum and enrollment, instructional materials and
12 equipment, science facilities and equipment, library facilities and
13 materials, and health and safety factors in buildings and grounds.
14 Rules and regulations which govern standards and procedures for
15 private, denominational, and parochial schools which elect, pursuant
16 to the procedures prescribed in subsections (2) through (6) of
17 section 79-1601, not to meet state accreditation or approval
18 requirements shall be as described in such section; (d) institute a
19 statewide system of testing to determine the degree of achievement
20 and accomplishment of all the students within the state's school
21 systems; ~~if it determines such testing would be advisable;~~ (e)
22 prescribe a uniform system of records and accounting for keeping
23 adequate educational and financial records, for gathering and
24 reporting necessary educational data, and for evaluating educational
25 progress; (f) cause to be published laws, rules, and regulations

1 governing the schools ~~and the school lands and funds~~ with explanatory
2 notes for the guidance of those charged with the administration of
3 the schools of the state; (g) approve teacher education programs
4 conducted in Nebraska postsecondary educational institutions designed
5 for the purpose of certificating teachers and administrators; (h)
6 approve certificated-employee evaluation policies and procedures
7 developed by school districts and educational service units; and (i)
8 approve general plans and adopt educational policies, standards,
9 rules, and regulations for carrying out the board's responsibilities
10 and those assigned to the State Department of Education by the
11 Legislature;

12 (6) Adopt and promulgate rules and regulations for the
13 guidance, supervision, accreditation, and coordination of educational
14 service units. Such rules and regulations for accreditation shall
15 include, but not be limited to, (a) a requirement that programs and
16 services offered to school districts by each educational service unit
17 shall be evaluated on a regular basis, but not less than every seven
18 years, to assure that educational service units remain responsive to
19 school district needs and (b) guidelines for the use and management
20 of funds generated from the property tax levy and from other sources
21 of revenue as may be available to the educational service units, to
22 assure that public funds are used to accomplish the purposes and
23 goals assigned to the educational service units by section 79-1204.
24 The State Board of Education shall establish procedures to encourage
25 the coordination of activities among educational service units and to

1 encourage effective and efficient educational service delivery on a
2 statewide basis;

3 (7) Submit a biennial report to the Governor and the
4 Clerk of the Legislature covering the actions of the board, the
5 operations of the State Department of Education, and the progress and
6 needs of the schools and recommend such legislation as may be
7 necessary to satisfy these needs;

8 (8) Prepare and distribute reports designed to acquaint
9 school district officers, teachers, and patrons of the schools with
10 the conditions and needs of the schools;

11 (9) Provide for consultation with professional educators
12 and lay leaders for the purpose of securing advice deemed necessary
13 in the formulation of policies and in the effectual discharge of its
14 duties;

15 (10) Make studies, investigations, and reports and
16 assemble information as necessary for the formulation of policies,
17 for making plans, for evaluating the state school program, and for
18 making essential and adequate reports;

19 (11) Submit to the Governor and the Legislature a budget
20 necessary to finance the state school program under its jurisdiction,
21 including the internal operation and maintenance of the State
22 Department of Education;

23 (12) Interpret its own policies, standards, rules, and
24 regulations and, upon reasonable request, hear complaints and
25 disputes arising therefrom;

1 (13) With the advice of the Department of Motor Vehicles,
2 adopt and promulgate rules and regulations containing reasonable
3 standards, not inconsistent with existing statutes, governing: (a)
4 The general design, equipment, color, operation, and maintenance of
5 any vehicle with a manufacturer's rated seating capacity of eleven or
6 more passengers used for the transportation of public, private,
7 denominational, or parochial school students; and (b) the equipment,
8 operation, and maintenance of any vehicle with a capacity of ten or
9 less passengers used for the transportation of public, private,
10 denominational, or parochial school students, when such vehicles are
11 owned, operated, or owned and operated by any public, private,
12 denominational, or parochial school or privately owned or operated
13 under contract with any such school in this state, except for
14 vehicles owned by individuals operating a school which elects
15 pursuant to section 79-1601 not to meet accreditation or approval
16 requirements. Similar rules and regulations shall be adopted and
17 promulgated for operators of such vehicles as provided in section
18 79-607;

19 (14) Accept, on behalf of the Nebraska Center for the
20 Education of Children who are Blind or Visually Impaired, devises of
21 real property or donations or bequests of other property, or both, if
22 in its judgment any such devise, donation, or bequest is for the best
23 interest of the center or the students receiving services from the
24 center, or both, and irrigate or otherwise improve any such real
25 estate when in the board's judgment it would be advisable to do so;

1 and

2 (15) Upon acceptance of any devise, donation, or bequest
3 as provided in this section, administer and carry out such devise,
4 donation, or bequest in accordance with the terms and conditions
5 thereof. If not prohibited by the terms and conditions of any such
6 devise, donation, or bequest, the board may sell, convey, exchange,
7 or lease property so devised, donated, or bequeathed upon such terms
8 and conditions as it deems best and remit all money derived from any
9 such sale or lease to the State Treasurer for credit to the State
10 Department of Education Trust Fund.

11 Each member of the Legislature shall receive a copy of
12 the report required by subdivision (7) of this section by making a
13 request for it to the commissioner.

14 None of the duties prescribed in this section shall
15 prevent the board from exercising such other duties as in its
16 judgment may be necessary for the proper and legal exercise of its
17 obligations.

18 Sec. 2. Section 79-1044, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 79-1044 The forest reserve funds, annually paid into the
21 state treasury by the United States Government under an act of
22 Congress approved June 30, 1906, shall be distributed among the
23 counties of the state entitled to the same for the benefit of the
24 public schools and the public roads of such counties, based upon
25 information provided by the United States Department of the Interior

1 under the direction of the Commissioner of Education, ~~in the~~
2 ~~following manner:~~

3 ~~(1) The State Treasurer shall annually on the first~~
4 ~~Monday in July certify to the commissioner the amount of money~~
5 ~~received from the United States Government as Nebraska's~~
6 ~~proportionate share of the income from the forest reserves within the~~
7 ~~state for the most recent complete fiscal year;~~

8 ~~(2) The Board of Educational Lands and Funds shall~~
9 ~~annually on the first Monday in July make and deliver to the~~
10 ~~commissioner a certificate showing the counties entitled to share in~~
11 ~~the Forest Reserve Fund, together with the number of acres of forest~~
12 ~~reserves in each county; and~~

13 ~~(3) The commissioner shall, on or before August 5, make~~
14 ~~apportionment of such funds to such counties according to the number~~
15 ~~of acres of forest reserve in each county and certify the~~
16 ~~apportionment of each county to the county treasurer of the proper~~
17 ~~county and to the Director of Administrative Services. The director~~
18 ~~shall draw a warrant on the State Treasurer in favor of the various~~
19 ~~counties for the amount specified by the commissioner.~~

20 Sec. 3. Section 79-1047, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 79-1047 The public grazing funds, annually paid to the
23 state treasury by the United States Government under the federal
24 Taylor Grazing Act, 43 U.S.C. 315i, as such act existed on May 8,
25 2001, shall be distributed among the counties of the state entitled

1 to the same for the benefit of the school districts of such counties,
2 based upon information provided by the United States Department of
3 the Interior under the direction of the Commissioner of Education. 7
4 in the following manner:

5 (1) ~~The State Treasurer shall annually on the first~~
6 ~~Monday in July certify to the commissioner the amount of money~~
7 ~~received from the United States Government as Nebraska's~~
8 ~~proportionate share of the income from the grazing lands within the~~
9 ~~state for the most recent complete fiscal year;~~

10 (2) ~~The Board of Educational Lands and Funds shall~~
11 ~~annually on the first Monday in July make and deliver to the~~
12 ~~commissioner a certificate showing the counties entitled to share in~~
13 ~~the grazing fund, together with the number of acres of grazing land~~
14 ~~in each county; and~~

15 (3) ~~The commissioner shall, on or before August 5, make~~
16 ~~apportionment of such funds to such counties according to the number~~
17 ~~of acres of grazing land in each county and certify the apportionment~~
18 ~~of each county to the county treasurer of the proper county and to~~
19 ~~the Director of Administrative Services. The director shall draw a~~
20 ~~warrant on the State Treasurer in favor of the various counties for~~
21 ~~the amount so specified by the Commissioner of Education.~~

22 Sec. 4. Section 79-1051, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 79-1051 The distribution of the funds received by the
25 State Treasurer under section 79-1049 shall be made based upon

1 information provided by the United States Department of the Interior
2 under the direction of the Commissioner of Education. in the
3 following manner:

4 ~~(1) The State Treasurer shall annually on the first~~
5 ~~Monday in July certify to the commissioner the amount of money~~
6 ~~received from the United States Government as Nebraska's~~
7 ~~proportionate share of the income from the leasing of lands acquired~~
8 ~~by the United States for flood control purposes;~~

9 ~~(2) The commissioner shall ascertain by appropriate~~
10 ~~inquiry in what counties the real estate on which lease rentals were~~
11 ~~paid was situated; and~~

12 ~~(3) The commissioner shall, on or before August 5, make~~
13 ~~apportionment of such fund to the counties entitled thereto in~~
14 ~~accordance with section 79-1050 and certify the apportionment of each~~
15 ~~county to the county treasurer of the proper county and to the~~
16 ~~Director of Administrative Services. The director shall draw a~~
17 ~~warrant on the State Treasurer in favor of the various counties for~~
18 ~~the amount specified by the commissioner.~~

19 Sec. 5. Original sections 79-1044, 79-1047, and 79-1051,
20 Reissue Revised Statutes of Nebraska, and section 79-318, Revised
21 Statutes Cumulative Supplement, 2010, are repealed.