

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 636

Introduced by Adams, 24.

Read first time January 19, 2011

Committee: Education

A BILL

1 FOR AN ACT relating to learning communities; to amend section
2 79-2101, Reissue Revised Statutes of Nebraska, and
3 sections 79-2,104, 79-528, 79-2104, 79-2104.02, 79-2110,
4 and 79-2118, Revised Statutes Cumulative Supplement,
5 2010; to change provisions relating to access to student
6 records, reporting, and diversity plans; to redefine a
7 term; to change powers and duties of learning community
8 coordinating councils; to harmonize provisions; to repeal
9 the original sections; and to declare an emergency.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-2,104, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 79-2,104 (1) Any student in any public school or his or
4 her parents, guardians, teachers, counselors, or school
5 administrators shall have access to the school's files or records
6 maintained concerning such student, including the right to inspect,
7 review, and obtain copies of such files or records. No other person
8 shall have access to such files or records except (a) when a parent,
9 guardian, or student of majority age provides written consent or (b)
10 as provided in subsection (3) of this section. The contents of such
11 files or records shall not be divulged in any manner to any
12 unauthorized person. All such files or records shall be maintained so
13 as to separate academic and disciplinary matters, and all
14 disciplinary material shall be removed and destroyed after a
15 student's continuous absence from the school for a period of three
16 years.

17 (2) Each public school may establish a schedule of fees
18 representing a reasonable cost of reproduction for copies of a
19 student's files or records for the parents or guardians of such
20 student, except that the imposition of a fee shall not prevent
21 parents of students from exercising their right to inspect and review
22 the students' files or records and no fee shall be charged to search
23 for or retrieve any student's files or records.

24 (3)(a) This section does not preclude authorized
25 representatives of (i) auditing officials of the United States, (ii)

1 auditing officials of this state, or (iii) state educational
2 authorities from having access to student or other records which are
3 necessary in connection with the audit and evaluation of federally
4 supported or state-supported education programs or in connection with
5 the enforcement of legal requirements which relate to such programs,
6 except that, when collection of personally identifiable data is
7 specifically authorized by law, any data collected by such officials
8 with respect to individual students shall be protected in a manner
9 which shall not permit the personal identification of students and
10 their parents by other than the officials listed in this subsection.
11 Personally identifiable data shall be destroyed when no longer needed
12 for such audit, evaluation, or enforcement of legal requirements.

13 (b) This section does not preclude or prohibit the
14 disclosure of student records to learning community employees
15 designated by the employing learning community coordinating council
16 as a local educational authority from having access to student or
17 other records which are required by statute to be reported to the
18 learning community or which are otherwise necessary in connection
19 with studies to evaluate programs or improve instruction, except that
20 when collection of personally identifiable data is specifically
21 authorized by law, any data collected by such employees with respect
22 to individual students shall be protected in a manner which does not
23 permit the personal identification of students and their parents by
24 other than the designated employees. Personally identifiable data
25 shall be destroyed when no longer needed for such purposes.

1 ~~(b)~~-(c) This section does not preclude or prohibit the
2 disclosure of student records to any other person or entity which may
3 be allowed to have access pursuant to the federal Family Educational
4 Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as such act existed
5 on January 1, 2009, and regulations adopted thereunder.

6 Sec. 2. Section 79-528, Revised Statutes Cumulative
7 Supplement, 2010, is amended to read:

8 79-528 (1)(a) On or before July 20 in all school
9 districts, the superintendent shall file with the State Department of
10 Education a report showing the number of children from five through
11 eighteen years of age belonging to the school district according to
12 the census taken as provided in sections 79-524 and 79-578. On or
13 before August 31, the department shall issue to each learning
14 community coordinating council a report showing the number of
15 children from five through eighteen years of age belonging to the
16 ~~learning community based on the member school districts of such~~
17 learning community according to the school district reports filed
18 with the department.

19 (b) Each Class I school district which is part of a Class
20 VI school district offering instruction (i) in grades kindergarten
21 through five shall report children from five through ten years of
22 age, (ii) in grades kindergarten through six shall report children
23 from five through eleven years of age, and (iii) in grades
24 kindergarten through eight shall report children from five through
25 thirteen years of age.

1 (c) Each Class VI school district offering instruction
2 (i) in grades six through twelve shall report children who are eleven
3 through eighteen years of age, (ii) in grades seven through twelve
4 shall report children who are twelve through eighteen years of age,
5 and (iii) in grades nine through twelve children who are fourteen
6 through eighteen years of age.

7 (d) Each Class I district which has affiliated in whole
8 or in part shall report children from five through thirteen years of
9 age.

10 (e) Each Class II, III, IV, or V district shall report
11 children who are fourteen through eighteen years of age residing in
12 Class I districts or portions thereof which have affiliated with such
13 district.

14 (f) The board of any district neglecting to take and
15 report the enumeration shall be liable to the school district for all
16 school money which such district may lose by such neglect.

17 (2) On or before June 30 the superintendent of each
18 school district shall file with the Commissioner of Education a
19 report described as an end-of-the-school-year annual statistical
20 summary showing (a) the number of children attending school during
21 the year under five years of age, (b) the length of time the school
22 has been taught during the year by a qualified teacher, (c) the
23 length of time taught by each substitute teacher, and (d) such other
24 information as the Commissioner of Education directs. On or before
25 July 31, the commissioner shall issue to each learning community

1 coordinating council an end-of-the-school-year annual statistical
2 summary for the learning community based on the member school
3 districts according to the school district reports filed with the
4 commissioner.

5 (3)(a) On or before November 1 the superintendent of each
6 school district shall submit to the Commissioner of Education a
7 report described as the annual financial report showing (i) the
8 amount of money received from all sources during the year and the
9 amount of money expended by the school district during the year, (ii)
10 the amount of bonded indebtedness, (iii) such other information as
11 shall be necessary to fulfill the requirements of the Tax Equity and
12 Educational Opportunities Support Act and section 79-1114, and (iv)
13 such other information as the Commissioner of Education directs.

14 (b) On or before December 15, the commissioner shall
15 issue to each learning community coordinating council an annual
16 financial report for the learning community based on the member
17 school districts according to the annual financial reports filed with
18 the commissioner, showing (i) the aggregate amount of money received
19 from all sources during the year for all member school districts and
20 the aggregate amount of money expended by member school districts
21 during the year, (ii) the aggregate amount of bonded indebtedness for
22 all member school districts, (iii) such other aggregate information
23 as shall be necessary to fulfill the requirements of the Tax Equity
24 and Educational Opportunities Support Act and section 79-1114 for all
25 member school districts, and (iv) such other aggregate information as

1 the Commissioner of Education directs for all member school
2 districts.

3 (4)(a) On or before October 15 of each year, the
4 superintendent of each school district shall file with the
5 commissioner the fall school district membership report, which report
6 shall include the number of children from birth through twenty years
7 of age enrolled in the district on the last Friday in September of a
8 given school year. The report shall enumerate (i) students by grade
9 level, (ii) school district levies and total assessed valuation for
10 the current fiscal year, and (iii) such other information as the
11 Commissioner of Education directs.

12 (b) On or before October 15 of each year, each learning
13 community coordinating council shall issue to the department a report
14 which enumerates the learning community levies pursuant to
15 subdivisions (2)(b) and (g) of section 77-3442 and total assessed
16 valuation for the current fiscal year.

17 (c) On or before November 15 of each year, the ~~department~~
18 commissioner shall issue to each learning community coordinating
19 council the fall learning community membership report, which report
20 shall include the ~~aggregate~~ number of children from birth through
21 twenty years of age enrolled in the member school districts of such
22 learning community on the last Friday in September of a given school
23 year for all member school districts. The report shall enumerate (i)
24 ~~the aggregate~~ students by grade level for all member school
25 districts, (ii) school district levies and total assessed valuation

1 for the current fiscal year, and (iii) such other information as the
2 Commissioner of Education directs for all member school districts.

3 (d) When any school district fails to submit its fall
4 membership report by November 1, the commissioner shall, after notice
5 to the district and an opportunity to be heard, direct that any state
6 aid granted pursuant to the Tax Equity and Educational Opportunities
7 Support Act be withheld until such time as the report is received by
8 the department. In addition, the commissioner shall direct the county
9 treasurer to withhold all school money belonging to the school
10 district until such time as the commissioner notifies the county
11 treasurer of receipt of such report. The county treasurer shall
12 withhold such money.

13 Sec. 3. Section 79-2101, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 79-2101 Learning community means a political subdivision
16 which shares the territory of member school districts and is governed
17 by a learning community coordinating council. For purposes of the
18 federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C.
19 1232g, and all regulations and applicable guidelines adopted in
20 accordance with such act, a learning community is a local educational
21 authority with respect to member school districts and students
22 enrolled in such districts. The fiscal year for a learning community
23 shall be the same as for member school districts.

24 Sec. 4. Section 79-2104, Revised Statutes Cumulative
25 Supplement, 2010, is amended to read:

1 79-2104 A learning community coordinating council shall
2 have the authority to:

3 (1) Levy a common levy for the general funds of member
4 school districts pursuant to sections 77-3442 and 79-1073;

5 (2) Levy a common levy for the special building funds of
6 member school districts pursuant to sections 77-3442 and 79-1073.01;

7 (3) Levy for elementary learning center facility leases,
8 for remodeling of leased elementary learning center facilities, and
9 for up to fifty percent of the estimated cost for focus school or
10 program capital projects approved by the learning community
11 coordinating council pursuant to subdivision (2)(h) of section
12 77-3442 and section 79-2111;

13 (4) Levy for elementary learning center employees, for
14 contracts with other entities or individuals who are not employees of
15 the learning community for elementary learning center programs and
16 services, and for pilot projects pursuant to subdivision (2)(i) of
17 section 77-3442, except that not more than ten percent of such levy
18 may be used for elementary learning center employees;

19 (5) ~~Collect, analyze, and report~~ and analyze data and
20 ~~information, including, but not limited to, information~~ provided by a
21 member school district pursuant to section 79-527 and subsection (5)
22 of section 79-201 and report its findings for the preceding school
23 year to the Education Committee of the Legislature on or before
24 December 31 of each year;

25 (6) Approve focus schools and focus programs to be

1 operated by member school districts;

2 (7) Adopt, approve, and implement a diversity plan which
3 shall include open enrollment and may include focus schools, focus
4 programs, magnet schools, and pathways pursuant to section 79-2110;

5 (8) Administer the open enrollment provisions in section
6 79-2110 for the learning community as part of a diversity plan
7 developed by the council to provide educational opportunities which
8 will result in increased diversity in schools across the learning
9 community;

10 (9) Annually conduct school fairs to provide students and
11 parents the opportunity to explore the educational opportunities
12 available at each school in the learning community and develop other
13 methods for encouraging access to such information and promotional
14 materials;

15 (10) Develop and approve reorganization plans for
16 submission pursuant to the Learning Community Reorganization Act;

17 (11) Establish and administer elementary learning centers
18 through achievement subcouncils pursuant to sections 79-2112 to
19 79-2114;

20 (12) Administer the learning community funds distributed
21 to the learning community pursuant to section 79-2111;

22 (13) Approve or disapprove poverty plans and limited
23 English proficiency plans for member school districts through
24 achievement subcouncils established under section 79-2117;

25 (14) Establish a procedure for receiving community input

1 and complaints regarding the learning community;

2 (15) Establish a procedure to assist parents, citizens,
3 and member school districts in accessing an approved center pursuant
4 to the Dispute Resolution Act to resolve disputes involving member
5 school districts or the learning community. Such procedure may
6 include payment by the learning community for some mediation
7 services; and

8 (16) Establish and administer pilot projects related to
9 enhancing the academic achievement of elementary students,
10 particularly students who face challenges in the educational
11 environment due to factors such as poverty, limited English skills,
12 and mobility.

13 Sec. 5. Section 79-2104.02, Revised Statutes Cumulative
14 Supplement, 2010, is amended to read:

15 79-2104.02 Each learning community coordinating council
16 shall use any funds received after January 15, 2011, pursuant to
17 section 79-1241.03 for evaluation and research pursuant to plans
18 developed by the learning community coordinating council with
19 assistance from the educational service unit coordinating council and
20 the student achievement coordinator and adjusted on an ongoing basis.
21 The evaluation shall be conducted by one or more other entities or
22 individuals who are not employees of the learning community and shall
23 measure progress toward the goals and objectives of the learning
24 community, which goals and objectives shall include closing academic
25 achievement gaps based on socioeconomic status, and the effectiveness

1 of the approaches used by the learning community or pilot project to
2 reach such goals and objectives. Any research conducted pursuant to
3 this section shall also be related to such goals and objectives.
4 After the first full year of operation, each learning community shall
5 report evaluation and research results to the Education Committee of
6 the Legislature on or before December ~~1~~31 of each year.

7 Sec. 6. Section 79-2110, Revised Statutes Cumulative
8 Supplement, 2010, is amended to read:

9 79-2110 (1)(a) Each diversity plan shall provide for open
10 enrollment in all school buildings in the learning community, subject
11 to specific limitations necessary to bring about diverse enrollments
12 in each school building in the learning community. Such limitations,
13 for school buildings other than focus schools and programs other than
14 focus programs, shall include giving preference at each school
15 building first to siblings of students who will be enrolled as
16 continuing students in such school building or program for the first
17 school year for which enrollment is sought in such school building
18 and then to students that contribute to the socioeconomic diversity
19 of enrollment at each building and may include establishing zone
20 limitations in which students may access several schools other than
21 their home attendance area school. Notwithstanding the limitations
22 necessary to bring about diversity, open enrollment shall include
23 providing access to students who do not contribute to the
24 socioeconomic diversity of a school building, if, subsequent to the
25 open enrollment selection process that is subject to limitations

1 necessary to bring about diverse enrollments, capacity remains in a
2 school building. In such a case, students who have applied to attend
3 such school building shall be selected to attend such school building
4 on a random basis up to the remaining capacity of such building. A
5 student who has otherwise been disqualified from the school building
6 pursuant to the school district's code of conduct or related school
7 discipline rules shall not be eligible for open enrollment pursuant
8 to this section. Any student who attended a particular school
9 building in the prior school year and who is seeking education in the
10 grades offered in such school building shall be allowed to continue
11 attending such school building as a continuing student.

12 (b) To facilitate the open enrollment provisions of this
13 subsection, each school year each member school district in a
14 learning community shall establish a maximum capacity for each school
15 building under such district's control pursuant to procedures and
16 criteria established by the learning community coordinating council.
17 Each member school district shall also establish attendance areas for
18 each school building under the district's control, except that the
19 school board shall not establish attendance areas for focus schools
20 or focus programs. The attendance areas shall be established such
21 that all of the territory of the school district is within an
22 attendance area for each grade. Students residing in a school
23 district shall be allowed to attend a school building in such school
24 district.

25 (c) For purposes of this section and sections 79-238, ~~and~~

1 79-611, and 79-2118, student who contributes to the socioeconomic
2 diversity of enrollment means (i) a student who does not qualify for
3 free or reduced-price lunches when, based upon the certification
4 pursuant to section 79-2120, the school building the student will
5 attend has more students qualifying for free or reduced-price lunches
6 than the average percentage of such students in all school buildings
7 in the learning community or (ii) a student who qualifies for free or
8 reduced-price lunches when, based upon the certification pursuant to
9 section 79-2120, the school building the student will attend has
10 fewer students qualifying for free or reduced-price lunches than the
11 average percentage of such students in all school buildings in the
12 learning community.

13 (2)(a) On or before March 15 of each year beginning with
14 the year immediately following the year in which the initial
15 coordinating council for the learning community takes office, a
16 parent or guardian of a student residing in a member school district
17 in a learning community may submit an application to any school
18 district in the learning community on behalf of a student who is
19 applying to attend a school building for the following school year
20 that is not in an attendance area where the applicant resides or a
21 focus school, focus program, or magnet school as such terms are
22 defined in section 79-769. On or before April 1 of each year
23 beginning with the year immediately following the year in which the
24 initial coordinating council for the learning community takes office,
25 the school district shall accept or reject such applications based on

1 the capacity of the school building, the eligibility of the applicant
2 for the school building or program, the number of such applicants
3 that will be accepted for a given school building, and whether or not
4 the applicant contributes to the socioeconomic diversity of the
5 school or program to which he or she has applied and for which he or
6 she is eligible. The school district shall notify such parent or
7 guardian in writing of the acceptance or rejection. On or before July
8 1, 2011, and on or before May 1 of each year thereafter, each school
9 district shall deliver to the learning community coordinating council
10 a complete and accurate copy of each application submitted on or
11 before the immediately preceding March 15 to the school district in
12 accordance with this subsection, which copy shall set forth whether
13 the school district accepted or rejected such application.

14 (b) A parent or guardian may provide information on the
15 application regarding the applicant's potential qualification for
16 free or reduced-price lunches. Any such information provided shall be
17 subject to verification and shall only be used for the purposes of
18 this section. Nothing in this section requires a parent or guardian
19 to provide such information. Determinations about an applicant's
20 qualification for free or reduced-price lunches for purposes of this
21 section shall be based on any verified information provided on the
22 application. If no such information is provided the student shall be
23 presumed not to qualify for free or reduced-price lunches for the
24 purposes of this section.

25 (c) A student may not apply to attend a school building

1 in the learning community for any grades that are offered by another
2 school building for which the student had previously applied and been
3 accepted pursuant to this section, absent a hardship exception as
4 established by the individual school district. On or before ~~September~~
5 October 1 of each year beginning with the year immediately following
6 the year in which the initial coordinating council for the learning
7 community takes office, each school district shall provide to the
8 learning community coordinating council a complete and accurate
9 report of all applications received, including ~~the number of students~~
10 ~~who applied at each grade level at each building, the number of~~
11 ~~students accepted at each grade level at each building, the number of~~
12 ~~such students that contributed to the socioeconomic diversity that~~
13 ~~applied and were accepted, the number of applicants denied and the~~
14 ~~rationales for denial, and other such information as requested by the~~
15 ~~learning community coordinating council.~~ (i) each student who applied
16 at each grade level at each school building, (ii) whether the
17 application was accepted or rejected, (iii) whether the applicant
18 would contribute to the socioeconomic diversity of such building,
19 (iv) if the application was denied, the rationale for denial, (v)
20 whether the applicant was a sibling of a student who would be
21 enrolled as a continuing student in such school building, and (vi)
22 such other information as requested by the learning community
23 coordinating council.

24 (3) Each diversity plan may also include establishment of
25 one or more focus schools or focus programs and the involvement of

1 every member school district in one or more pathways across member
2 school districts. Enrollment in each focus school or focus program
3 shall be designed to reflect the socioeconomic diversity of the
4 learning community as a whole. School district selection of students
5 for focus schools or focus programs shall be on a random basis from
6 two pools of applicants, those who qualify for free and reduced-price
7 lunches and those who do not qualify for free and reduced-price
8 lunches. The percentage of students selected for focus schools from
9 the pool of applicants who qualify for free and reduced-price lunches
10 shall be as nearly equal as possible to the percentage of the student
11 body of the learning community who qualify for free and reduced-price
12 lunches. The percentage of students selected for focus schools from
13 the pool of applicants who do not qualify for free and reduced-price
14 lunches shall be as nearly equal as possible to the percentage of the
15 student body of the learning community who do not qualify for free
16 and reduced-price lunches. If more capacity exists in a focus school
17 or program than the number of applicants for such focus school or
18 program that contribute to the socioeconomic diversity of the focus
19 school or program, the school district shall randomly select
20 applicants up to the number of applicants that will be accepted for
21 such building. A student who will complete the grades offered at a
22 focus program, focus school, or magnet school that is part of a
23 pathway shall be allowed to attend the focus program, focus school,
24 or magnet school offering the next grade level as part of the pathway
25 as a continuing student. A student who completes the grades offered

1 at a focus program, focus school, or magnet school shall be allowed
2 to attend a school offering the next grade level in the school
3 district responsible for the focus program, focus school, or magnet
4 school as a continuing student. A student who attended a program or
5 school in the school year immediately preceding the first school year
6 for which the program or school will operate as a focus program or
7 focus school approved by the learning community and meeting the
8 requirements of section 79-769 and who has not completed the grades
9 offered at the focus program or focus school shall be a continuing
10 student in the program or school.

11 (4) On or before February 15 of each year beginning with
12 the year immediately following the year in which the initial
13 coordinating council for the learning community takes office, a
14 parent or guardian of a student who is currently attending a school
15 building or program, except a magnet school, focus school, or focus
16 program, outside of the attendance area where the student resides and
17 who will complete the grades offered at such school building prior to
18 the following school year shall provide notice, on a form provided by
19 the school district, to the school board of the school district
20 containing such school building if such student will attend another
21 school building within such district as a continuing student and
22 which school building such student would prefer to attend. On or
23 before March 1, such school board shall provide a notice to such
24 parent or guardian stating which school building or buildings the
25 student shall be allowed to attend in such school district as a

1 continuing student for the following school year. If the student
2 resides within the school district, the notice shall include the
3 school building offering the grade the student will be entering for
4 the following school year in the attendance area where the student
5 resides. This subsection shall not apply to focus schools or
6 programs.

7 (5) A parent or guardian of a student who moves to a new
8 residence in the learning community after April 1 may apply directly
9 to a school board within the learning community within ninety days
10 after moving for the student to attend a school building outside of
11 the attendance area where the student resides. Such school board
12 shall accept or reject such application within fifteen days after
13 receiving the application, based on the number of applications and
14 qualifications pursuant to subsection (2) or (3) of this section for
15 all other students.

16 (6) A parent or guardian of a student who wishes to
17 change school buildings for emergency or hardship reasons may apply
18 directly to a school board within the learning community at any time
19 for the student to attend a school building outside of the attendance
20 area where the student resides. Such application shall state the
21 emergency or hardship and shall be kept confidential by the school
22 board. Such school board shall accept or reject such application
23 within fifteen days after receiving the application. Applications
24 shall only be accepted if an emergency or hardship was presented
25 which justifies an exemption from the procedures in subsection (4) of

1 this section based on the judgment of such school board, and such
2 acceptance shall not exceed the number of applications that will be
3 accepted for the school year pursuant to subsection (2) or (3) of
4 this section for such building.

5 Sec. 7. Section 79-2118, Revised Statutes Cumulative
6 Supplement, 2010, is amended to read:

7 79-2118 (1) Each learning community, together with its
8 member school districts, shall develop a diversity plan to provide
9 educational opportunities pursuant to sections 79-769 and 79-2110 in
10 each subcouncil district designed to attract students from diverse
11 backgrounds, which plan may be revised from time to time. The initial
12 diversity plan shall be completed by December 31 of the year the
13 initial learning community coordinating council for the learning
14 community takes office. The goal of the diversity plan shall be to
15 annually increase the socioeconomic diversity of enrollment at each
16 grade level in each school building within the learning community
17 until such enrollment reflects the average socioeconomic diversity of
18 the entire enrollment of the learning community.

19 (2) Each diversity plan for a learning community shall
20 include specific provisions relating to each subcouncil district
21 within such learning community. The specific provisions relating to
22 each subcouncil district shall be approved by both the achievement
23 subcouncil for such district and by the learning community
24 coordinating council.

25 (3) The learning community coordinating council shall

1 report to the Education Committee of the Legislature on or before
2 December ~~1~~31 of each even-numbered year on the diversity and changes
3 in diversity at each grade level in each school building within the
4 learning community and on the academic achievement for different
5 demographic groups in each school building within the learning
6 community.

7 Sec. 8. Original section 79-2101, Reissue Revised
8 Statutes of Nebraska, and sections 79-2,104, 79-528, 79-2104,
9 79-2104.02, 79-2110, and 79-2118, Revised Statutes Cumulative
10 Supplement, 2010, are repealed.

11 Sec. 9. Since an emergency exists, this act takes effect
12 when passed and approved according to law.