

**ONE HUNDRED FOURTH LEGISLATURE - SECOND SESSION - 2016**  
**COMMITTEE STATEMENT**  
**LB1066**

---

**Hearing Date:** Monday February 01, 2016  
**Committee On:** Education  
**Introducer:** Sullivan  
**One Liner:** Change provisions relating to education

---

**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

---

**Vote Results:**

**Aye:** 8 Senators Baker, Groene, Kolowski, Krist, Morfeld, Pansing Brooks, Schnoor, Sullivan

**Nay:**

**Absent:**

**Present Not Voting:**

---

**Verbal Testimony:**

**Proponents:**

Senator Kate Sullivan  
Brian Halstead  
John Bonaiuto

**Representing:**

Introducer  
Nebraska Department of Education  
Nebraska Association of School Boards

**Opponents:**

Sheri Rickert  
Mark L'Heureux

**Representing:**

Nebraska Catholic Conference  
Christ Schools

**Neutral:**

**Representing:**

**Summary of purpose and/or changes:**

Legislative Bill 1066 is the annual technical bill for P-12 education. The measure would generally:

1. Remove an unnecessary term from Step Up to Quality Child Care Act provisions;
2. Modify exceptions to the general limitation of one option under the enrollment option program and clarify standards for the releasing a student from a district;
3. Allow school boards to appoint clerks when the secretary is absent;
4. Provide flexibility regarding the cancellation of bus driver contracts for violations of traffic rules or regulations;
5. Define textbook for purposes of the textbook loan program;
6. Modify provisions related to the accountability system;
7. Change the name of the Center for Student Leadership and Extended Learning Act to the Center for Student Leadership and Expanded Learning Act;
8. Clarify and harmonize provisions under the Enhancing Excellence in Teaching Program;
9. Clarify the total distribution for option payments and allocated income taxes;
10. Change the deadline for estimating state aid;
11. Provide for automatic lump sum payments of prior year corrections less than \$1,000;
12. Remove obsolete provisions from within statutes; and
13. Outright repeal obsolete statutes.

## Analysis by Section

Section 71-1958 would be amended by removing corrective action status from the list of criteria that may lower a program's quality scale rating under the Step Up to Quality Child Care Act. The term is not defined or otherwise used in the Act. The remaining criteria in the list include disciplinary limitation, probation, or suspension of the license.

Section 79-234 would be amended to modify the exceptions to the general rule that a student may only exercise one option under the enrollment option program. Currently, use of the enrollment option program does not count against the possibility of future use of the program if the option was used to allow the student to enroll in a school district in which the student was previously enrolled as a resident student. The changes would expand that exception to include previous enrollment in the district regardless of student's residency status during the previous enrollment.

Section 79-237 would be amended by removing an obsolete provision that was only applicable for the 2013-14 school year.

Section 79-238 would be amended by clarifying that standards and conditions for acceptance or rejection of the release of a student who submits an option application after the deadline must be specific and must not be simply that the deadline has past. The standards would also be required to apply to the release of both resident and option students.

Section 79-576 would be amended to allow a clerk to be appointed by the school board, rather than the legal voters of the district, when the secretary is not present at a meeting.

Section 79-607 would be amended to make the cancellation of a contract with a person operating a school bus optional, rather than mandatory, upon the failure to comply with a traffic rule or regulation.

Section 79-234 would be amended to define textbooks for the textbook loan program as reusable printed materials bound inside a cover used in a course of study in a school by a student. The existing textbook loan program requires school districts to purchase and loan textbooks to children enrolled in private schools, but only to the extent the district receives funding from a legislative appropriation for that purpose and the textbooks are designated for use in the school district where the child resides where the school is located.

Section 79-760.03 would be amended to include the accountability system in the review of the statewide assessment plan and state assessment instruments by the technical advisory committee. The authority for the State Board of Education to select grade levels subject areas in compliance with federal requirements would be expanded by including assessment instruments and by focusing on being consistent with federal requirements, rather than on compliance.

Section 79-772 would be amended by changing the name of the Center for Student Leadership and Extended Learning Act to the Center for Student Leadership and Expanded Learning Act (Act).

Section 79-773 would be amended by adding Educators Rising to the list of career education student organizations and updating the name of the Health Occupations Students of America (HOSA) with the new name, HOSA Future Health Professionals. In addition, the term "extended-learning" would be replaced with "expanded-learning" in describing experiences that benefit students. This change harmonizes with the change in the name of the Act in section 79-772.

Section 79-774 would be amended to harmonize with the change in the name of the Act in section 79-772. The definition of extended learning would be replaced with a definition of expanded learning, which would require activities and programs to be school-based or school-linked and to utilize school-community partnerships.

Section 79-775 would be amended by to harmonize with the change in the name of the Act in section 79-772.

Section 79-8,137.01 would be amended to clarify the definitions for the Enhancing Excellence in Teaching Program. The inclusion of graduate courses of study leading to an endorsement in a shortage area specified by the State Board of Education would be moved from the definition of an eligible student to the definition of eligible graduate programs.

Section 79-8,137.03 would be amended by striking references to endorsement programs to harmonize with the inclusion of such programs within the definition of eligible graduate programs pursuant to the proposed changes in 79-8,137.01.

Section 79-8,137.04 would be amended by clarifying that program changes adopted last year apply to recipients who received funds for the first time on or after July 1, 2016, rather than applying to the funds received on or after July 1, 2016. References to endorsement programs would also be stricken to harmonize with the inclusion of such programs within the definition of eligible graduate programs pursuant to the proposed changes in 79-8,137.01. Schools providing free meals to all students pursuant to the community eligibility provision would be added to the teaching sites that allow for accelerated loan forgiveness for recipients who receive funds for the first time on or after July 1, 2016. This addition was made to the provisions that existed at the time with the passage of LB 519 (2014). The change contained in this measure harmonize the LB 519 change with the changes made with the later passage of LB 525 (2014).

Section 79-1003 would be amended to harmonize with the outright repeal of sections 79-1028.02 and 79-1028.04, which provided for federal funds.

Section 79-1005.01 would be amended to clarify that the total to be distributed as option payments and allocated income tax funds is \$102,289,817. This is the amount that was appropriated to the school District Income Tax Fund for 1992-93, so there is no substantive change. Obsolete provisions would also be eliminated.

Section 79-1028.01 would be amended to harmonize with the outright repeal of section 79-1011, which provided for the consolidation support grants.

Section 79-1031 would be amended by moving the deadline for the estimate of state aid from November 15 to December 15. The estimate is provided by the Department, with assistance from the Property Tax Administrator, the Legislative Fiscal Analyst, and the budget division, to assist in the development of the budget.

Section 79-1065.01 would be amended by authorizing automatic lump-sum payments of state aid based on prior year corrections if the payment is less than \$1,000. For corrections that are equal to or greater than \$1,000, districts could continue to apply for the lump-sum payment under the current provisions.

#### Outright Repeals

Section 79-1011 would be outright repealed as obsolete. The provided for consolidation support grants, which have expired.

Section 79-1012 would be outright repealed as obsolete. The provided for the School District Reorganization Fund, which has been used to hold funds for consolidation support grants and reorganization incentive, all of which have expired.

Section 79-1028.02 would be outright repealed as obsolete. The section provided for the distribution of federal American Recovery and Reinvestment Act funds for 2009-10 and 2010-11.

Section 79-1028.04 would be outright repealed as obsolete. The section provided for the distribution of federal Education Jobs funds for 2010-11.

---

#### **Explanation of amendments:**

The Committee amendment would:

1. Eliminate the proposed change in the deadline for the Tax Equity and Educational Opportunities Support Act (TEEOSA) estimate;
2. Provide for resident school districts to reimburse option school districts for special education costs;

3. Incorporate concepts from LB 1004 and LB 1065 regarding the federal community eligibility provision (CEP), which allows all students to eat free without applications in qualified schools;
4. Provide additional flexibility for school boards when a bus driver has a traffic law violation;
5. Provide intent for the Department to recommend changes for the textbook loan program and removes proposed definition changes;
6. Removes references to specific student organizations that are not based in Nebraska law;
7. Reinstate language providing a historical context for the total amount distributed as allocated income tax funds and net option funding; and
8. Provide an exclusion from the budget limitations for federal impact aid related to Indian lands with a school district and students residing on Indian lands.

#### 1. TEEOSA Estimate

Section 19 of the original bill would be removed. Section 19 would have amended 79-1031 by moving the deadline for the estimate of state aid from November 15 to December 15. The estimate is provided by the Department, with assistance from the Property Tax Administrator, the Legislative Fiscal Analyst, and the budget division, to assist in the development of the budget.

#### 2. Option Special Education Costs

Section 79-246 would be amended to require resident districts to reimburse option school districts for special education costs. The requirement would be limited to costs for option students who begin attendance as an option student in a contiguous school district after August 1, 2016. The reimbursement would equal the allowable excess cost attributable to the student minus the state reimbursement. The option district would be required to:

- a. Notify the resident district by October 1, 2016, within 60 days of approval of the option application, or within 60 days of verification of the disability, whichever is later, that the district will be responsible for reimbursements;
- b. Provide notice to the resident district within 60 days after receipt of state special education reimbursement of the amount of the reimbursement due; and
- c. Provide information to the resident district upon request with regard to the programs and services received by the student, the excess allowable costs associated with the programs and services, and the method for attributing the costs to the student.

The Department would be required to establish an appeal procedure for the resident school district to appeal the amount. The Department would be authorized to adopt and promulgate rules and regulations for the administration of the section, which could include methods for attributing excess allowable costs to option students.

#### 3. Community Eligibility Provision

The amendment would combine concepts from Senator Cook's LB 1004 and Senator Sullivan's LB 1065 to modify provisions related to the federal Community Eligibility Provision (CEP) and consolidate and clarify provisions allowing for financial information provided by parents for the purpose of determining if a student meets the qualification criteria for certain benefits.

Under CEP, eligible schools provide free meals to all students without collecting applications. The identified student percentage (ISP) is federally defined and represents the percentage of students attending a school that are prequalified to receive free lunches due to their participation in other programs. For purposes of determining federal reimbursements for the school lunch and school breakfast programs, a multiplier 1.6 is used to approximate the combined free and reduced-price percentage if applications were collected. However, the poverty allowance, which is the purpose for the free lunch and free milk students calculation, only considers students qualifying for free lunches.

Section 79-10,143 would be amended by clarifying that voluntary information provided by parents or guardians on applications regarding potential qualification for free or reduced-price lunches may be used solely for specified eligibility determinations. The purposes for which eligibility may be determined include priority for option enrollment in a learning community member district (79-238), transportation for option students (79-241), use of musical instruments (79-2,131),

student fee waivers (79-2,133), open enrollment transportation (79-611), priority for open enrollment (79-2110), and Access College Early Scholarships (85-2104). The language in the section is also streamlined for clarity. These changes were contained in LB 1065.

Section 79-2110 would be amended by striking the separate provision allowing parents in learning communities to voluntarily provide information on open enrollment applications to determine eligibility for free or reduced-price lunches. The eligibility status is used for open enrollment preferences based on contributing to the socioeconomic diversity of a school. The change was proposed in LB 1065 and harmonizes with the revisions to section 79-10,143.

Section 79-2120 would be amended to streamline references regarding the determination of socioeconomic diversity for learning communities and modify the criteria for CEP schools. As proposed in LB 1004, the determination of socioeconomic diversity would be modified by increasing the average percentage of students qualifying for free or reduced-price lunches in CEP schools by multiplying the identified student percentage (ISP) by 1.6. The streamlining of references for the determination of socioeconomic diversity would not further modify the criteria and was proposed in LB 1065.

Section 24 would require the Department to promote CEP to schools and school districts eligible to participate. The promotion efforts would be required to include the provision of official guidance regarding the options for implementation and options for maintaining state aid and federal funds. A similar requirement was proposed in LB 1004, but with the timing specified as 30 days after the act and on or before each May 1 thereafter.

Section 79-1003, which is being amended in section 16 of the original bill, would also be amended to increase free lunch and free milk calculated students by 10% for CEP schools, which was proposed in both LB 1004 and LB 1065. Additional changes would not allow the calculated student number to be less than the qualifying students from the last year that the school was not a CEP school or more than 100% of the students qualified for free meals pursuant to CEP at the school. The first limitation was proposed in LB 1004 and the 100% maximum was proposed in LB 1065.

#### 4. Bus Drivers

Section 79-607 would be amended in the original proposal to make the cancellation of a contract with a person operating a school bus optional, rather than mandatory, upon the failure to comply with a traffic rule or regulation. The amendment furthers that change by removing the mandates that the bus driver would be guilty of a Class V misdemeanor, subject to removal from office or employment, and guilty of breach of contract. The amendment also clarifies that the bus driver may be dismissed as an option to canceling the contract and the specification of the responsible officers in the hearing requirement would be removed.

#### 5. Textbook Loan Program

Section 79-734 would be amended in the original proposal to define textbooks for the textbook loan program. The amendment removes the proposed definition and adds an intent for the Department of Education to provide recommendations for changes that reflect advances in technology and education content for students to the Education Committee of the Legislature on or before October 1, 2016.

#### 6. Named Organizations

Section 79-773 would be amended in the original proposal to harmonize with terminology changes and by adding Educators Rising to the list of career education student organizations and updating the name of the Health Occupations Students of America (HOSA) with the new name, HOSA Future Health Professionals. The amendment would remove the list of specific organization names, which are not based in Nebraska law.

#### 7. Amount Distributed as Allocated Income Tax and Net Option Funding

Section 79-1005.01 would be amended in the original proposal to clarify that the total to be distributed as option

payments and allocated income tax funds is \$102,289,817. The amendment would reinstate the language describing the amount as the amount that was appropriated to the school District Income Tax Fund for 1992-93.

#### 8. Indian Lands Impact Aid

Section 79-1028.01 would be amended in the original proposal to harmonize with the outright repeal of section 79-1011, which provided for the consolidation support grants. The amendment would add a budget exclusion for federal impact aid based on both Indian lands within the district and students who reside on Indian lands.

---

Kate Sullivan, Chairperson