

ONE HUNDRED FOURTH LEGISLATURE - FIRST SESSION - 2015
COMMITTEE STATEMENT
LB616

Hearing Date: Tuesday February 17, 2015
Committee On: Education
Introducer: Larson
One Liner: Adopt the Independent Public Schools Act

Roll Call Vote - Final Committee Action:
Indefinitely postponed

Vote Results:

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

Nay:

Absent:

Present Not Voting:

Verbal Testimony:

Proponents:

Senator Tyson Larson
Deb Andrews
Clarice Jackson

Ben Terry
Jeanine Reischl
Matt Litt
Celelia Alexander

Gwenn Aspen

Adam Weinberg
Charisse Williams

Devel Crisp
Douglas Trammel
Ternisha Smith

Representing:

Introducer
self
LEARN (Liberate, Educate, and Reform Nebraska)
Coalition
self
self
Americans for Prosperity - Nebraska
LEARN (Liberate, Educate, and Reform Nebraska)
Coalition
LEARN (Liberate, Educate, and Reform Nebraska)
Coalition
Platte Institute for Economic Research
LEARN (Liberate, Educate, and Reform Nebraska)
Coalition
self
self
self

Opponents:

Karl Roth
Isaac Pavkovic
Cindy Copich
Robert Meyers
Andrea Nenzil
Troy Loeffelholz
Julie Kalkowski
Carolyn Grice
John Bonaiuto

Representing:

self
self
Greater Nebraska Schools Association
self
self
Greater Nebraska Schools Association
self
Nebraska State Education Association
Nebraska Association of School Boards

Marc Bowman
John Lindsay
Jay Sears
Ean Garrett
Sundiata Menelik

self
Omaha Public Schools
Nebraska State Education Association
Infinite 8 Institute
Mad Dads One

Neutral:
Orron Hill

Representing:
Nebraska Public Employee Retirement Systems

Summary of purpose and/or changes:

Legislative Bill 616 would create the Independent Public Schools Act to authorize independent public schools in cities of the metropolitan class. Each school would be managed by a board of trustees pursuant to a compact granted by the State Board of Education. Funding would be provided by the resident school districts of students.

Findings

Legislative findings would state that independent public schools:

1. Improve student learning by creating high-performing schools with high standards;
2. Encourage high-quality models of teaching, governing, scheduling, or other aspects of schooling;
3. Close achievement gaps between high-performing and low-performing groups of students;
4. Allow freedom and flexibility in exchange for results-driven accountability;
5. Increase high-quality opportunities in public schools for all students especially those at risk; and
6. Provide students, parents, community members, and local entities with expanded opportunities or involvement in public education.

General

Independent public schools would operate in cities of the metropolitan class under a compact granted by the State Board. The schools would be independent of any school board and would be managed by a board of trustees. The board of trustees would supervise and control the school, oversee the implementation of the curriculum as described in the application, and develop the annual budget.

Independent public schools would be deemed political subdivisions. Independent public schools would also be a body politic and corporate with all powers necessary or desirable for carrying out its compact, including, but not limited to, the power to:

1. Adopt a name and corporate seal, except any name must include "independent public school";
2. Sue and be sued as provided in the Political Subdivisions Tort Claims Act;
3. Acquire real property from public or private sources by lease, lease with an option to purchase, or by gift for use as a school facility;
4. Receive and disburse funds for school purposes;
5. Make contracts and leases for the procurement of services, equipment, and supplies, except that if substantially all educational services are intended to be procured under contract with another person, the terms of the contract would need to be approved by the Commissioner, either as part of the original compact or as an amendment. The Commissioner could not approve contract terms if the purpose or effect is to avoid the prohibition against the operation of an independent public school by a private, denominational, or parochial school or a school which elects not to meet accreditation or approval requirements;
6. Incur temporary debt in anticipation of receipt of funds;
7. Solicit and accept any grants or gifts for school purposes; and
8. Have such other powers available to a corporation formed under the Nebraska Nonprofit Corporation Act that are not inconsistent with the Independent Public Schools Act.

Independent public schools would be required to operate in accordance with the compact, the fire and life safety

provisions of law applicable to public schools, and the performance, testing, and assessment requirements of the Quality Education Accountability Act. Independent public schools would be part of the state system of public education, but would be exempt from all statutes, rules, and regulations applicable to public schools unless specifically provided otherwise in the Act. The board of trustees could voluntarily elect to have the school comply with such statutes, rules, and regulations.

Employees would be considered employees of a political subdivision for purposes of the Political Subdivisions Tort Claims Act. The board of trustees would be considered a governing body for purposes of the Political Subdivisions Tort Claims Act. Section 13-903 would be amended by adding independent public schools and the boards of trustees to the Political Subdivisions Tort Claims Act.

The State Board would be required to develop procedures and guidelines for revocation and renewal of compacts and to adopt and promulgate rules and regulations to carry out the Act.

Applications and Requirements

Persons or entities eligible to submit an application, independently or in combination, would include, but not be limited to:

1. Teachers;
2. Parents;
3. School administrators;
4. Community residents;
5. Public organizations; and
6. Nonprofit organizations.

Application could be filed in conjunction with a college, university, museum, or other similar entity. Private, denominational, and parochial schools and schools electing not to meet accreditation or approval requirements would not be eligible.

The State Board would establish the requirements for receiving a compact. The rules and regulations would be required to include, but not be limited to:

1. Location in a city of the metropolitan class;
2. Open to all students on a space-available basis with no discrimination on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special needs, English proficiency, or academic achievement;
3. May limit enrollment to grade levels or areas of focus, such as mathematics, science, or the arts;
4. No admission fee or tuition would be allowed; and
5. Such other requirements as the State Board deems necessary.

The annual application deadline would be January 15th. Applications would include, but not be limited to:

1. Name of the applicants;
2. Description of the organizational structure and governing body;
3. Financial plan for the first year of operation;
4. Description of the physical plant and location;
5. Description of the grade levels;
6. Description of the curriculum;
7. Mission statement and vision statement;
8. Student achievement goals and evaluation methods;
9. Plan for using external, internal, and state-required assessments to measure student progress and how data will be used to drive instruction and continue school improvement;
10. Plans and timelines for student recruitment, enrollment, and lottery policies and procedures;
11. Draft handbook outlining personnel policies, including criteria for hiring qualified teachers, school administrators, and other employees, a description of staff responsibilities, and the plan to evaluate personnel on an annual basis;

12. Draft of the discipline policies and procedures for students, including students with disabilities, which are consistent with due process requirements and with the Special Education Act, other state and federal laws and regulations relating to the placement of students with disabilities, and the Student Discipline Act;
13. Description of the health and food services;
14. Policies, methods, and strategies for serving students with disabilities in compliance with the Special Education Act and all federal laws and regulations;
15. Procedures in the case of the closure or dissolution of the school, including provisions for the transfer of students and student records to the school district in which the school is located or to another independent public school located within the school district;
16. Code of ethics setting forth the standards of conduct for its board of trustees and employees;
17. Plans for recruiting and developing staff;
18. Staffing chart for the first year and for the term of the compact;
19. Opportunities for parental and community involvement, including the role of parents in the administration and governance;
20. Plan for identifying and serving students with disabilities, students who are English language learners, bilingual students, students who are academically behind grade level, and students who are learners with high ability, including but not limited to, the plan for compliance with all applicable federal and state laws, rules, and regulations; and
21. Detailed start-up plan, including tasks, timelines, and individuals carrying out the plan.

The State Board would be required to:

1. Approve only applications that have demonstrated competence in all elements of the requirements;
2. Base decisions on documented evidence collected through the application review process; and
3. Follow policies and practices that are transparent, based on merit, and avoid conflicts of interest.

The State Board would review applications and grant or deny compacts within 60 days of receipt. The review process would include an evaluation of the application, an in-person interview with the applicant group, and an opportunity for local residents to provide input and learn about the application in a public forum. The decision to approve or deny would be made in an open meeting. An initial compact would be for a term of 5 years and may be renewed for successive 5-year periods. The State Board may condition the grant of a compact on the school's taking certain actions or maintaining certain conditions.

Pilot Programs

A pilot program would be created to provide for the approval of up to 5 independent public schools. The State Board would review the pilot program after 5 years and decide whether or not to renew the compacts for the schools operating pursuant to the pilot based on the statutory criteria for approving applications.

Renewals

Applications for renewals would be submitted at least 6 months prior to the expiration of the compact unless a different date is agreed to the board of trustees and the State Board. Renewal applications would be required to include:

1. Progress in achieving the educational objectives set forth in the application;
2. Progress of the school in meeting the goals of the academic performance framework in the application;
3. Detailed financial statement, in a form prescribed by the Commissioner of Education, with costs of administration, instruction, and other spending categories that will allow comparison to other schools;
4. Copies of each of the annual reports of the school; and
5. Indicators of parent and student satisfaction.

Renewal decisions would be based on evidence of the performance over the term of the compact and would ensure that data used in making the decision is available to the school and the public.

Probation

The State Board could, after notice and a hearing, place an independent public school on probation based upon performance-based data and evidence. A school on probation could submit a remedial plan describing the actions that will be implemented to correct the problems. After one calendar year following submission, if the remedial plan has not been implemented or the plan has not succeeded in solving the problems, the State Board may summarily revoke the compact.

Students

No tuition and no fees pursuant to the Public Elementary and Secondary Student Fee Authorization Act could be charged to any student. Preference for enrollment would be given to students who reside in the city of the metropolitan class where the school is located. In the event that the total number of eligible applicants from the city plus siblings of students already attending the school exceeds the number of spaces available, an admission lottery would be conducted.

Students could withdraw at any time and enroll in the resident school district, option school district, or a private, denominational, or parochial school or a school electing not to meet accreditation or approval requirements. Students could be expelled in accordance with the provisions of the Student Discipline Act.

The Class V school district in which an independent public school is located would provide transportation for students living in the district on the same terms and conditions as transportation is provided to students attending district schools. Students who do not reside in the district would be eligible for transportation as provided for option students.

Facilities and Funding

Independent public schools could be located in all or part of an existing public school building, in space provided on a private work site, in a public building, or any other suitable location. Schools could own, lease, or rent space.

The school district of residence of each student attending an independent public school would be required to annually pay to the school the school district's actual per pupil cost for the preceding fiscal year. The Department would calculate the actual per pupil cost based upon information submitted by the school district. The payments would be made within 30 days after the beginning of the school fiscal year. If students withdraw or are expelled during the school year of the resident school district, the school would reimburse the school district a pro rata amount based on the number of complete months remaining in the school year of the school district.

Employees

The Class V School Employees Retirement Act would apply to employees of independent public schools. School boards would be required to grant a leave of absence to any teacher requesting such leave in order to teach in an independent public school. Teachers could only request a leave of absence for a maximum of 2 years. At the end of 2 years, the teacher could:

1. Request that the leave be extended for an additional 2 years and approval could not be unreasonably withheld; or
2. Return to employment with the school district and be entitled to all retirement and other benefits earned during his or her previous employment with the district.

At the end of the fourth year, the teacher could either return to employment with the school district, or resign and continue teaching at the independent public school.

Section 48-801 would be amended by exempting independent public schools and the boards of trustees from the Industrial Relations Act. Section 79-978 would be amended by adding independent public school employees to the Class V School Employees Retirement Act.

Reporting

Independent public schools would be required to submit an annual report by November 1st of each year to the State Board, parents, and anyone else upon request. The report for the preceding school year would be in the form prescribed by the State Board and would include at least the following components:

1. Discussion of progress made toward achievement of the goals in the compact; and
2. Financial statement setting forth the revenue and expenditures by appropriate categories for the year just ended.

The Department would be required to post each annual report on the department's web site.

Complaints

An individual or a group could file a complaint with the board of trustees concerning any claimed violation of the Independent Public Schools Act. If, after presenting such complaint to the trustees, the individual or group believes the complaint has not been adequately addressed, they may submit the complaint to the Commissioner who would be required to investigate and make a formal response.

Kate Sullivan, Chairperson