

AMENDMENTS TO LB529

(Amendments to Standing Committee amendments, AM495)

Introduced by Murman, 38.

1           1. Strike section 6 and insert the following new sections:

2           Sec. 6. (1) The Behavioral Training Cash Fund is created. The fund  
3 shall be administered by the State Department of Education and shall  
4 consist of money received pursuant to section 9-812 and any money  
5 appropriated by the Legislature.

6           (2) For school fiscal year 2021-22, each school district shall  
7 qualify for behavioral training funding. For school fiscal year 2022-23  
8 and each school fiscal year thereafter, each school district in  
9 compliance with the behavioral awareness and intervention training  
10 requirements pursuant to section 4 of this act, as certified by the state  
11 school security director, shall be eligible for behavioral training  
12 funding.

13           (3) Each qualified school district shall receive behavioral training  
14 funding of six thousand dollars each school fiscal year from the  
15 Behavioral Training Cash Fund. Any money remaining in the fund after such  
16 behavioral training funding for any school fiscal year shall be disbursed  
17 as additional behavioral training funding on a per capita basis to each  
18 qualified school district based on the number of full-time equivalent  
19 teachers in each qualified school district. If there is not a sufficient  
20 amount of money in the fund for each qualified school district to receive  
21 six thousand dollars for any school fiscal year, such amount shall be  
22 reduced to the level where all qualified school districts receive an  
23 equal share of the money in the fund for such school fiscal year.

24           (4) Behavioral training funding shall be distributed directly to  
25 school districts from the Behavioral Training Cash Fund in ten as nearly  
26 as possible equal payments in the same manner as and in conjunction with

1 funds distributed pursuant to subsection (2) of section 79-1022. For  
2 purposes of the general fund budget of expenditures as defined in section  
3 79-1003, behavioral training funding received pursuant to this section  
4 shall be considered special grant funds.

5 (5) Any money in the Behavioral Training Cash Fund available for  
6 investment shall be invested by the state investment officer pursuant to  
7 the Nebraska Capital Expansion Act and the Nebraska State Funds  
8 Investment Act.

9 Sec. 7. Section 79-258, Revised Statutes Cumulative Supplement,  
10 2020, is amended to read:

11 79-258 Administrative and teaching personnel may take actions  
12 regarding student behavior, other than those specifically provided in the  
13 Student Discipline Act, which are reasonably necessary to aid the  
14 student, further school purposes, or prevent interference with the  
15 educational process. Such actions may include, but need not be limited  
16 to, reasonable physical contact, counseling of students, parent  
17 conferences, referral to restorative justice practices or services,  
18 rearrangement of schedules, requirements that a student remain in school  
19 after regular hours to do additional work, restriction of extracurricular  
20 activity, or requirements that a student receive counseling,  
21 psychological evaluation, or psychiatric evaluation upon the written  
22 consent of a parent or guardian to such counseling or evaluation.

23 Sec. 8. Section 79-259, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 79-259 If a student is removed, suspended, expelled, or excluded  
26 from school or from any educational function pursuant to the Student  
27 Discipline Act, such absence from school shall not be deemed a violation  
28 on the part of any person under any compulsory school attendance  
29 statutes. Any suspension or expulsion under the act shall comply with the  
30 requirements of the Special Education Act and the requirements of the  
31 federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 ~~1401~~

1 et seq.

2 Sec. 9. Section 79-2,144, Revised Statutes Cumulative Supplement,  
3 2020, is amended to read:

4 79-2,144 The state school security director appointed pursuant to  
5 section 79-2,143 shall be responsible for providing leadership and  
6 support for safety and security for the public schools. Duties of the  
7 director include, but are not limited to:

8 (1) Collecting safety and security plans, required pursuant to rules  
9 and regulations of the State Department of Education relating to  
10 accreditation of schools, and other school security information from each  
11 school system in Nebraska. School districts shall provide the state  
12 school security director with the safety and security plans of the school  
13 district and any other security information requested by the director,  
14 but any plans or information submitted by a school district may be  
15 withheld by the department pursuant to subdivision (8) of section  
16 84-712.05;

17 (2) Recommending minimum standards for school security on or before  
18 January 1, 2016, to the State Board of Education;

19 (3) Conducting an assessment of the security of each public school  
20 building, which assessment shall be completed by August 31, 2019;

21 (4) Identifying deficiencies in school security based on the minimum  
22 standards adopted by the State Board of Education and making  
23 recommendations to school boards for remedying such deficiencies;

24 (5) Establishing security awareness and preparedness tools and  
25 training programs for public school staff;

26 (6) Establishing research-based model instructional programs for  
27 staff, students, and parents to address the underlying causes for violent  
28 attacks on schools;

29 (7) Overseeing suicide awareness and prevention training in public  
30 schools pursuant to section 79-2,146;

31 (8) Establishing tornado preparedness standards which shall include,

1 but not be limited to, ensuring that every school conducts at least two  
2 tornado drills per year;

3 (9) Collecting behavioral awareness and intervention training plans  
4 and certifying compliance or noncompliance with section 4 of this act to  
5 the Commissioner of Education for each school district;

6 (10) (9) Responding to inquiries and requests for assistance  
7 relating to school security from private, denominational, and parochial  
8 schools; and

9 (11) (10) Recommending curricular and extracurricular materials to  
10 assist school districts in preventing and responding to cyberbullying and  
11 digital citizenship issues.

12 Sec. 10. (1) Administrative, teaching, and other school personnel  
13 may utilize an emergency safety intervention to physically protect a  
14 student, school personnel, or another person from imminent serious  
15 physical injury.

16 (2) An emergency safety intervention must be performed in a manner  
17 that is safe, proportionate, and appropriate to the severity of the  
18 behavior; the student's chronological and developmental age, size, sex,  
19 and physical, medical, and psychiatric condition, if known; and the  
20 student's personal history, including any history of physical or sexual  
21 abuse, if known. If possible, efforts to de-escalate the situation should  
22 occur prior to an emergency safety intervention. An emergency safety  
23 intervention does not include any physical action that is intended to  
24 cause bodily pain or to punish a student. An emergency safety  
25 intervention shall be used only:

26 (a) To protect persons from harm or secure property if such action  
27 may protect a student, school personnel, or other person from imminent  
28 serious physical injury;

29 (b) To ensure the safety of the student or others during an  
30 emergency safety situation;

31 (c) Until the emergency safety situation has ceased and the

1 student's safety and the safety of others can be ensured; and

2 (d) With the least amount of force necessary to protect the student  
3 or others from imminent serious physical injury.

4 (3) Each school district shall adopt a policy regarding the use of  
5 an emergency safety intervention pursuant to this section. Such policy  
6 shall include training requirements relating to the use of an emergency  
7 safety intervention.

8 (4) Following the use of an emergency safety intervention, school  
9 personnel shall, as soon as practicable, contact the parent or guardian  
10 of the student and notify such parent or guardian of the use of an  
11 emergency safety intervention.

12 (5)(a) No administrative, teaching, or other school personnel shall  
13 be subject to professional or administrative discipline for harm caused  
14 by an act or omission by such administrative, teaching, or other school  
15 personnel relating to the use of an emergency safety intervention  
16 pursuant to this section unless the harm was caused by (i) gross  
17 negligence, (ii) a conscious, flagrant indifference to the rights or  
18 safety of the individual who was harmed, or (iii) willful, criminal, or  
19 reckless misconduct, including misconduct (A) that constitutes a crime of  
20 violence, as defined by 18 U.S.C. 16, as such section existed on January  
21 1, 2021, (B) that involves a sexual offense listed in subdivision (1)(a)  
22 (i) of section 29-4003, (C) for which the administrative, teaching, or  
23 other school personnel has been found to have violated a federal or state  
24 civil rights law, or (D) that occurred while the administrative,  
25 teaching, or other school personnel was under the influence of alcoholic  
26 liquor or drugs.

27 (b) Nothing in this section shall be construed to limit any defense  
28 that may be available under any other provision of law, including, but  
29 not limited to, any defense relating to self-protection or the protection  
30 of others.

31 (6) For purposes of this section:

1           (a) Emergency safety intervention means the use of restraint as an  
2 immediate response to an emergency safety situation;

3           (b) Emergency safety situation means a student's behavior poses a  
4 serious threat of imminent serious physical injury to the student or  
5 others if no emergency safety intervention occurs and the student has the  
6 immediate means or capability to cause such imminent serious physical  
7 injury;

8           (c) Imminent serious physical injury means serious physical injury  
9 to a student or others occurring currently or highly likely to occur in  
10 the immediate future as the result of the student's behavior; and

11           (d) Serious physical injury means death, disfigurement, or  
12 protracted loss or impairment of the function of a bodily member or organ  
13 of a student or others.

14           Sec. 11. (1) For school year 2021-22 and each school year  
15 thereafter, each school district shall create and adopt a classroom  
16 removal policy. Each classroom removal policy shall:

17           (a) Describe when and how a teacher may request that a school  
18 administrator remove a disruptive student from a classroom and when the  
19 student may be returned to the classroom;

20           (b) Define appropriate behavioral interventions or supports that  
21 shall be implemented to aid a student's successful return to a classroom;  
22 and

23           (c) Require the return to the classroom of a student who has been  
24 removed by the end of the same school day, if possible, when it is deemed  
25 safe and in the best interest of the student.

26           (2) Except as prohibited by the federal Individuals with  
27 Disabilities Education Act, 20 U.S.C. 1400 et seq., related federal  
28 regulations, or any applicable individualized education plan established  
29 pursuant to such federal act, if a teacher has requested that a school  
30 administrator remove a disruptive student from a classroom in compliance  
31 with the school district's classroom removal policy, a school

1 administrator shall temporarily remove such student from such classroom.

2 (3) No school personnel shall be subject to administrative  
3 discipline or an involuntary classroom reassignment for removing a  
4 student from a classroom or requesting such removal if such school  
5 personnel followed the school district's classroom removal policy.

6 2. On page 7, strike beginning with "(1)(a)" in line 30 through line  
7 31.

8 3. On page 8, strike lines 1 through 3; in line 4 strike "(b)" and  
9 insert "(1)(a)"; in line 6 after "training" insert "that includes, but is  
10 not limited to, training for emergency safety intervention as defined in  
11 section 10 of this act"; in line 14 strike "(c)" and insert "(b)"; in  
12 line 21 strike the second "and"; after line 21 insert the following new  
13 subdivisions:

14 "(iv) Emergency safety intervention;

15 "(v) Clear guidelines on removing students from and returning  
16 students to a classroom;

17 "(vi) Behavioral interventions and supports that will take place when  
18 a student has been removed from a classroom; and"; and in line 22 strike  
19 "(iv)" and insert "(vii)".

20 4. On page 9, lines 3 and 4 and 8, strike "Educational Service Unit  
21 Coordinating Council" and insert "state school security director".

22 5. On page 11, line 10, strike "refer a student to" and insert  
23 "inform a student eighteen years of age or older or a parent or guardian  
24 of any other student of".

25 6. On page 70, line 27, strike "35 to 59" and insert "40 to 64".

26 7. Renumber the remaining sections and correct internal references  
27 and the repealer accordingly.