

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 641

Introduced by Raikes, 25

Read first time January 17, 2007

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend sections 32-545,
2 32-552, 32-601, 32-604, 79-552, and 79-567, Reissue
3 Revised Statutes of Nebraska, and sections 79-4,122,
4 79-4,129, 79-4,130, 79-2101, and 79-2110, Revised
5 Statutes Cumulative Supplement, 2006; to provide for the
6 creation of education centers; to prescribe elections; to
7 prescribe powers and duties; to harmonize provisions; and
8 to repeal the original sections.

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

1 Section 1. Section 32-545, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-545 (1) (a) A member of the board of education of a
4 Class V school district that has not been divided into education
5 centers or (b) an education center board member for a Class V
6 school district that has been divided into education centers shall
7 be elected from each district provided for in section 32-552. The
8 members shall meet the qualifications found in section 79-552.

9 (2) Except as provided in subsection (3) of this section,
10 at At each statewide general election, ~~six~~ one-half of the members
11 of the board shall be elected to serve for four years from
12 and including the first Monday of the January following their
13 election or until their successors are elected and qualified.
14 Candidates shall be nominated at the statewide primary election
15 upon a nonpartisan ballot. At the statewide general election in
16 1976 and each four years thereafter, one member shall be elected
17 from each even-numbered district. At the statewide general election
18 in 1978 and each four years thereafter, one member shall be
19 elected from each odd-numbered district. The members shall meet the
20 qualifications found in section 79-543.

21 (3) In the year that a new education center will be
22 formed, all members of such education center board shall be elected
23 at the statewide primary election in such year and shall serve
24 from June 1 of such year until their successors are elected
25 and qualified. After the initial board is elected, succeeding

1 board members shall be elected pursuant to subsection (2) of this
2 section based on whether the election district is even-numbered or
3 odd-numbered, except such elections shall not occur in the same
4 year as the initial board is elected.

5 Sec. 2. Section 32-552, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 32-552 (1) ~~At~~ Except as provided in subsection (3)
8 of this section, at least five months prior to an election,
9 the governing board of any political subdivision requesting the
10 adjustment of the boundaries of election districts shall provide
11 written notification to the election commissioner or county clerk
12 of the need and necessity of his or her office to perform such
13 adjustments.

14 (2) After ~~the next~~ each federal decennial census, the
15 election commissioner of the county in which the greater part of a
16 Class IV school district is situated shall, subject to review by
17 the school board, divide the school district into seven numbered
18 districts, substantially equal in population as determined by the
19 most recent federal decennial census. The election commissioner
20 shall consider the location of schools within the district and
21 their boundaries. The election commissioner shall adjust the
22 boundaries of the election districts, subject to final review
23 and adjustment by the school board, to conform to changes in the
24 territory and population of the school district ~~and also~~ following
25 each federal decennial census. Except when specific procedures are

1 otherwise provided, section 32-553 shall apply to all Class IV
2 school districts.

3 (3) ~~The~~ At the request of the State Committee for the
4 Reorganization of School Districts, whenever a Class V school
5 district is to be divided into education centers, the election
6 commissioner of the county in which the greater part of a Class
7 V school district is situated shall, within thirty days after the
8 request is made, divide the area comprising each education center
9 ~~the school district~~ into ~~twelve~~ eight numbered districts of compact
10 and contiguous territory and of as nearly equal population as may
11 be practical. The election commissioner shall adjust the election
12 district boundaries of such districts, education centers for Class
13 V districts that have been divided into education centers and of
14 Class V districts for such districts that have not been divided
15 into education centers, subject to final review and adjustment by
16 the school board, ~~to conform to changes in the territory of the~~
17 ~~school district and also~~ following each federal decennial census.

18 Sec. 3. Section 32-601, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 32-601 Each political subdivision shall notify the
21 election commissioner or county clerk of the offices to be filled
22 no later than January 5 of any election year as provided in
23 subsection (2) of section 32-404. The State Committee for the
24 Reorganization of School Districts shall notify the election
25 commissioner or county clerk of offices to be filled for a new

1 education center no later than January 5 of the year in which the
2 new education center is to be formed. The election commissioner
3 or county clerk shall give notice of the offices to be filled by
4 election and the filing deadlines for such offices by publication
5 in at least one newspaper of general circulation in the county once
6 at least fifteen days prior to such deadlines.

7 Sec. 4. Section 32-604, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 32-604 (1) Except as provided in subsection (2) or (4) of
10 this section, no person shall be precluded from being elected or
11 appointed to or holding an elective office for the reason that he
12 or she has been elected or appointed to or holds another elective
13 office.

14 (2) No person serving as a member of the Legislature or
15 in an elective office described in Article IV, section 1 or 20,
16 or Article VII, section 3 or 10, of the Constitution of Nebraska
17 shall simultaneously serve in any other elective office, except
18 that such a person may simultaneously serve in another elective
19 office which is filled at an election held in conjunction with the
20 annual meeting of a public body.

21 (3) Whenever an incumbent serving as a member of the
22 Legislature or in an elective office described in Article IV,
23 section 1 or 20, or Article VII, section 3 or 10, of the
24 Constitution of Nebraska assumes another elective office, except
25 an elective office filled at an election held in conjunction with

1 the annual meeting of a public body, the office first held by the
2 incumbent shall be deemed vacant.

3 (4) No person serving in a high elective office shall
4 simultaneously serve in any other high elective office, except
5 that:

6 (a) A a county attorney may serve as the county attorney
7 for more than one county if appointed under subsection (2) of
8 section 23-1201.01; and -

9 (b) A board member for a new education center who is
10 currently serving as a Class V school district school board member
11 may continue to serve as a school board member for such Class V
12 school district until the State Committee for the Reorganization
13 of School District order forming such new education center becomes
14 effective.

15 (5) Notwithstanding subsections (2) through (4) of this
16 section, any person holding more than one high elective office upon
17 September 13, 1997, shall be entitled to serve the remainder of all
18 terms for which he or she was elected or appointed.

19 (6) For purposes of this section, (a) elective office has
20 the meaning found in section 32-109 and includes an office which is
21 filled at an election held in conjunction with the annual meeting
22 of a public body created by an act of the Legislature and (b)
23 high elective office means a member of the Legislature, an elective
24 office described in Article IV, section 1 or 20, or Article VII,
25 section 3 or 10, of the Constitution of Nebraska, or a county,

1 city, or school district elective office.

2 Sec. 5. Section 79-4,122, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 79-4,122 Before any plan of reorganization submitted by
5 a learning community coordinating council or any plan developed
6 pursuant to section 79-4,130 is approved by the state committee
7 pursuant to the Learning Community Reorganization Act, the state
8 committee shall hold one or more public hearings. At such hearings,
9 the state committee shall hear any and all persons interested
10 with respect to the areas of consideration listed in section
11 79-4,121. The state committee shall keep a record of all hearings
12 in the formulation or approval of plans for the reorganization
13 of school districts. Notice of such public hearings of the state
14 committee shall be given by publication in a legal newspaper of
15 general circulation in the county or counties in which the affected
16 districts are located at least ten days prior to such hearing.

17 Sec. 6. Section 79-4,129, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 79-4,129 (1) ~~Within~~ Except as provided in subsection (3)
20 of section 32-545 and subsection (3) of section 32-552, within
21 thirty days after the classification of the reorganized school
22 districts by the county clerk under section 79-4,128, the state
23 committee shall appoint from among the legal voters of each
24 new school district created the number of members necessary to
25 constitute a school board of the class in which the new school

1 district has been classified. A reorganized school district shall
2 be formed and organized and shall have a school board not later
3 than April 1 following the last legal action, as prescribed in
4 section 79-4,128, necessary to effect the changes in boundaries
5 as set forth in the plan of reorganization, although the physical
6 reorganization of such reorganized school district shall take
7 effect July 1 following the classification of the reorganized
8 school districts under section 79-4,128. The first board shall be
9 appointed on an at-large basis, and all boards shall be elected
10 at large until such time as election districts are established as
11 provided in section 32-554.

12 (2) In appointing the first school board of a Class
13 II school district, the members shall be appointed so that the
14 terms of three members expire on the date of the first regular
15 meeting of the board in January after the first even-numbered year
16 following their appointment and the terms of the three remaining
17 members expire on the date of the first regular meeting of the
18 board in January after the second even-numbered year following
19 their appointment. At the statewide general election in the first
20 even-numbered year after the reorganization, three board members
21 in each Class II school district shall be elected to terms of
22 four years. Thereafter all candidates shall be elected to terms
23 of four years. Each member's term shall begin on the date of the
24 first regular meeting of the board in January following his or her
25 election.

1 (3) In appointing the first school board of a Class
2 III school district with a six-member board serving terms of
3 four years, the terms of three members shall expire on the first
4 Thursday after the first Tuesday in January after the first
5 even-numbered year following their appointment and the terms of
6 the three remaining members shall expire on the first Thursday
7 after the first Tuesday in January after the second even-numbered
8 year following their appointment. Thereafter all Class III district
9 school boards with six-member boards shall be elected to terms of
10 four years.

11 (4) In appointing the first school board of a Class
12 III school district with a nine-member board serving terms of
13 four years, the terms of four members shall expire on the first
14 Thursday after the first Tuesday in January after the first
15 even-numbered year following their appointment and the terms of
16 five members shall expire on the first Thursday after the first
17 Tuesday in January after the second even-numbered year following
18 their appointment. Thereafter all Class III district school boards
19 with nine-member boards shall be elected to terms of four years.

20 (5) In appointing the first school board of a Class IV
21 school district, the members shall be appointed so that the terms
22 of three members shall expire on the third Monday in May of the
23 first odd-numbered year following their appointment and the terms
24 of four members shall expire on the third Monday in May of the
25 second odd-numbered year following their appointment. Thereafter

1 all Class IV district school boards shall be elected to terms of
2 four years.

3 ~~(6)~~ (6) (a) In appointing the first school board of a
4 Class V school district with a twelve-member board serving terms
5 of four years, the terms of six members shall expire on the first
6 Monday in January after the first even-numbered year following
7 their appointment and the terms of six members shall expire on
8 the first Monday in January after the second even-numbered year
9 following their appointment. Thereafter all Class V district school
10 boards shall be elected to terms of four years.

11 (b) For Class V school districts being divided into
12 education centers, the state committee shall request that the
13 election commissioner of the county in which the greater part of
14 a Class V school district is situated divide each education center
15 into eight numbered districts of compact and contiguous territory
16 and of as nearly equal population as may be practical within
17 thirty days of such request. The election districts provided by
18 such election commissioner shall be included in the order forming
19 the new education centers. The state committee shall notify the
20 election commissioner or county clerk pursuant to section 32-601
21 of offices to be filled for new education centers no later than
22 January 5 of the year in which the new education centers will be
23 formed. The initial board of the new education centers shall be
24 elected pursuant to subsection (3) of section 32-545.

25 (7) The school boards appointed under this section shall

1 proceed at once to organize in the manner prescribed by law.

2 Sec. 7. Section 79-4,130, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 79-4,130 (1) On or before ~~July 1, 2007,~~ each learning
5 ~~community coordinating council shall submit a plan to~~ December
6 31, 2007, and on or before December 31 of each odd-numbered year
7 thereafter, the state committee ~~to divide any Class V school~~
8 ~~districts in the learning community into new Class V school~~
9 ~~districts shall issue orders to divide into education centers any~~
10 Class V school district which has not been previously divided into
11 education centers pursuant to this section. The education centers
12 shall be organized around the attendance areas of existing high
13 school buildings which are not currently being used exclusively
14 for specialized programs, with two or three such high school
15 buildings in each education center. ~~new Class V school district.~~
16 ~~Such new Class V districts shall consist of school buildings~~
17 ~~having attendance areas which are contiguous.~~ The effective date
18 ~~for reorganizations~~ any division of a Class V school district into
19 education centers pursuant to this section shall be July 1, 2008.
20 January 1 following the issuance of orders by the state committee
21 for election purposes and July 1 following the issuance of orders
22 by the state committee for all other purposes. Such reorganizations
23 shall not be subject to the approval or disapproval of any school
24 board pursuant to section 79-4,126.

25 ~~(2) If the state committee disapproves such plan pursuant~~

1 to section 79-4,124, the state committee shall revise the plan and
2 shall hold one or more hearings pursuant to section 79-4,122 on the
3 revised plan. The state committee may further revise the plan and
4 hold one or more additional hearings pursuant to such section.

5 ~~(3)~~ If a learning community coordinating council fails
6 to submit a plan as required pursuant to subsection ~~(1)~~ of this
7 section on or before July 1, 2007, the state committee shall
8 develop a plan to divide any Class V school districts in the
9 learning community into new Class V school districts organized
10 around the attendance areas of the existing high school buildings
11 which are not currently being used exclusively for specialized
12 programs, with two or three such high school buildings in each new
13 Class V school district. (2) The state committee shall develop a
14 plan meeting the requirements of subsection (1) of this section and
15 hold a hearing pursuant to section 79-4,122. The state committee
16 and may revise the plan and may hold one or more additional
17 hearings pursuant to such section.

18 ~~(4)~~ On or before December 31, 2007, the state committee
19 shall approve plans to divide all Class V school districts in
20 learning communities into new Class V school districts organized
21 around the attendance areas of existing high school buildings,
22 which are not currently being used exclusively for specialized
23 programs, with two or three such high school buildings in each new
24 Class V school district.

25 (3) The school board members and employees of Class V

1 school districts divided into education centers pursuant to this
2 section shall have a duty to prepare their school district for a
3 smooth transition.

4 Sec. 8. (1) Except as otherwise provided by law:

5 (a) Education centers formed pursuant to section 79-4,130
6 are school districts for all purposes; and

7 (b) Education center boards elected pursuant to section
8 32-545 are school boards for all purposes.

9 (2) Each education center shall have a board composed of
10 eight members elected from election districts as determined by the
11 election commissioner pursuant to section 32-552.

12 (3) Each Class V school district divided into education
13 centers shall have an administrative board composed of two members
14 from each education center board in the Class V school district
15 chosen by such education center boards. Education center board
16 members serving on the Class V administrative board shall not
17 simultaneously serve on a learning community coordinating council.

18 (4) Except as provided in subsection (5) of this section,
19 each administrative board of a Class V school district divided into
20 education centers shall determine which responsibilities shall be
21 performed by the Class V school district for the benefit of the
22 education centers and which responsibilities shall be performed by
23 the education centers.

24 (5) (a) A Class V school district divided into education
25 centers shall retain the authority and responsibility for:

1 (i) Levying property taxes and distributing the proceeds
2 based on the proportionate share of the adjusted valuation of each
3 education center;

4 (ii) Determining an equitable contribution from each
5 education center to the Class V school district based on the budget
6 of the Class V school district;

7 (iii) Financing, purchasing, constructing, remodeling,
8 and maintaining facilities;

9 (iv) Administration of the retirement system for Class V
10 school employees; and

11 (v) Reporting aggregate information to the State
12 Department of Education for the entire Class V school district.

13 (b) Education centers shall have the authority and
14 responsibility for:

15 (i) Hiring teachers, principals, and a superintendent for
16 the education center; and

17 (ii) Reporting information to the Department of Education
18 on an individual education center basis.

19 (6) Each education center shall be treated as an
20 individual school district for purposes of the Tax Equity and
21 Educational Opportunities Support Act.

22 Sec. 9. Section 79-552, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 79-552 ~~The~~ Except as otherwise provided in sections
25 32-545, 32-552, and section 8 of this act, the board of education

1 of a Class V school district shall consist of twelve members, one
2 elected from each district pursuant to section 32-545, and also may
3 include a nonvoting student member or members selected pursuant to
4 section 79-559. Each elected member of a Class V school district
5 or an education center board shall be a resident of the district
6 for at least six months prior to the election. Each candidate for
7 election to and each member of the board of education shall be a
8 taxpayer in and a resident of the election district of such school
9 district or education center as designated pursuant to section
10 32-552. All persons elected as members of the school board of
11 ~~education~~ shall take and subscribe to the usual oath of office
12 before the first Monday in January following their election or,
13 for new education centers, before June 1 following their election,
14 and the student member shall take and subscribe to the usual oath
15 of office before the first Monday in January following his or her
16 designation or, for new education centers before June 1 following
17 his or her designation. In case any person so elected fails so to
18 do, his or her election shall be void and the vacancy shall be
19 filled by the board.

20 Sec. 10. Section 79-567, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 79-567 The members of the board of education of a Class
23 V school district, or education center, at the initial meeting for
24 a new education center or Class V school district and at their
25 regular meeting in January each year, shall elect a president

1 and vice president from their own members, who shall serve for
2 terms of one year or until their successors are elected and
3 qualified or until their first regular meeting in January if
4 elected at the initial meeting for a new education center or Class
5 V school district. The members of the board of education may also
6 select from outside their own members one superintendent of public
7 schools, one secretary, one treasurer, and such other officers as
8 the board may deem necessary for the administration of the affairs
9 of the school district, at such salary as the board may deem just,
10 and in their discretion they may enter into contracts with such
11 officers for terms of not to exceed three years. The board shall
12 have the power to elect its president and vice president and to
13 select its officers and employees in accordance with rules adopted
14 by the board.

15 Sec. 11. Section 79-2101, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 79-2101 Learning community means a political subdivision
18 which shares the territory of member school districts and is
19 governed by a learning community coordinating council. The member
20 school districts may include a Class V school district if such
21 school district has not been divided into education centers. If a
22 Class V school district has been divided into education centers,
23 each education center shall be a member school district. The fiscal
24 year for a learning community shall be the same as for member
25 school districts. A learning community shall not have the authority

1 to levy property taxes for the first fiscal year of its existence
2 and shall not have the authority to levy property taxes prior to
3 school fiscal year 2008-09.

4 Sec. 12. Section 79-2110, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 79-2110 (1) For school year 2008-09 and each school year
7 thereafter, each member school district in a learning community
8 shall establish a maximum capacity for each school building
9 under such district's control. Each member school district shall
10 also establish attendance areas for each school building under
11 the district's control, except that the school board shall not
12 establish attendance areas for school buildings with focus schools
13 or programs. The attendance areas shall be established such that
14 all of the territory of the school district is within an attendance
15 area for each grade, but no territory of the school district is
16 within more than one attendance area for a grade. Students residing
17 in an attendance area shall be allowed to attend such school
18 building for the grades offered.

19 (2) On or before March 1, 2008, and March 1 of each
20 year thereafter, the school board shall certify to the learning
21 community coordinating council the number of students that will be
22 accepted for the next school year into each school building ~~from~~
23 who reside outside of the school building's attendance area ~~for the~~
24 ~~next school year~~ based on the greater of:

25 (a) The established capacity and the estimated number of

1 students who will attend the school building from the attendance
2 area or as continuing students; or -

3 (b) The number of students which, when added to the
4 estimated number of continuing students, would result in ten
5 percent or more of the students attending such school building who
6 reside outside of such school building's attendance area.

7 (3) (a) On or before March 15, 2008, and March 15 of
8 each year thereafter, a parent or guardian of a student residing
9 in a member school district in a learning community may apply
10 to the learning community coordinating council to attend for the
11 following school year a school building in the learning community
12 that is not in an attendance area where the student resides. On
13 or before April 1, 2008, and April 1 of each year thereafter,
14 the learning community coordinating council shall accept or reject
15 such applications based on the number of such students the school
16 district is willing to accept for a given school building and shall
17 notify the applicant in writing of the acceptance or rejection.

18 (b) If more students have applied to attend a school
19 building, other than a focus school or program, than the number of
20 such students the school district is willing to accept for such
21 building, the learning community coordinating council shall select
22 applications for approval up to the number of such students the
23 school district is willing to accept for such building as follows:
24 (i) Students who qualify for free lunch shall be selected first,
25 with applications for such students selected randomly up to the

1 number of students the school district is willing to accept for
2 such building; (ii) students who qualify for reduced-price lunch
3 shall be selected randomly up to the remainder of the number of
4 students the school district is willing to accept for such building
5 if all of the applications for students who qualify for free lunch
6 have been selected; and (iii) all other applications shall be
7 selected randomly up to the remainder of the number of students
8 the school district is willing to accept for such building if all
9 of the applications for students who qualify for free lunch and
10 reduced-price lunch have been selected.

11 (c) If more students have applied to attend a focus
12 school or program than the number of such students the school
13 district is willing to accept for such focus school or program, the
14 learning community coordinating council shall select applications
15 for approval up to the number of such students the school district
16 is willing to accept for such building as follows: (i) Students
17 who qualify for free lunch shall be selected randomly up to the
18 product of the number of students the school district is willing
19 to accept for such focus school or program multiplied by the ratio
20 of students qualifying for free lunch in the learning community
21 divided by the total formula students in the learning community;
22 (ii) students qualifying for reduced-price lunch shall be selected
23 randomly up to the product of the number of students the school
24 district is willing to accept for such focus school or program
25 multiplied by the ratio of students qualifying for reduced-price

1 lunch in the learning community divided by the total formula
2 students in the learning community; (iii) students who do not
3 qualify for free or reduced-price lunch shall be selected randomly
4 up to the product of the number of students the school district
5 is willing to accept for such school or program multiplied by the
6 ratio of students not qualifying for free or reduced-price lunch
7 in the learning community divided by the total formula students in
8 the learning community; and (iv) students who were not selected
9 pursuant to subdivision (c)(i), (ii), or (iii) of this subsection
10 shall be selected randomly up to the number of students the school
11 district is willing to accept for such school or program minus
12 the number of students that were selected pursuant to subdivisions
13 (c)(i), (ii), and (iii) of this subsection.

14 (d) Any student who attended a particular school building
15 in the prior school year and who is seeking education in the
16 grades offered in such school building shall be allowed to continue
17 attending such school building as a continuing student.

18 (4) On or before February 15 of each year, a parent or
19 guardian of a student who is currently attending a school building
20 outside of the attendance area where the student resides and who
21 will complete the grades offered at such school building prior to
22 the following school year shall provide notice, on a form provided
23 by the school district, to the school board of the school district
24 containing such school building if such student will attend another
25 school building within such district as a continuing student and

1 which school building such student would prefer to attend. On or
2 before March 1, such school board shall provide a notice to such
3 parent or guardian stating which school building or buildings the
4 student will be allowed to attend in such school district as a
5 continuing student for the following school year. If the student
6 resides within the school district, the notice shall include the
7 school building offering the grade the student will be entering
8 for the following school year in the attendance area where the
9 student resides. This subsection shall not apply to focus schools
10 or programs.

11 (5) A parent or guardian of a student who moves to a
12 new residence in the learning community after April 1 may apply
13 directly to a school board within the learning community within
14 ninety days after moving for the student to attend a school
15 building outside of the attendance area where the student resides.
16 Such school board shall accept or reject such application within
17 fifteen days after receiving the application, based on the capacity
18 established pursuant to subsection (2) of this section.

19 (6) A parent or guardian of a student who wishes to
20 change school buildings for emergency or hardship reasons may apply
21 directly to a school board within the learning community at any
22 time for the student to attend a school building outside of the
23 attendance area where the student resides. Such application shall
24 state the emergency or hardship and shall be kept confidential by
25 the school board. Such school board shall accept or reject such

1 application within fifteen days after receiving the application,
2 based on the judgment of such school board, except that the board
3 may not exceed the established capacity.

4 (7) The learning community coordinating council shall
5 establish a procedure for determining the maximum capacity for each
6 school building.

7 Sec. 13. Original sections 32-545, 32-552, 32-601,
8 32-604, 79-552, and 79-567, Reissue Revised Statutes of Nebraska,
9 and sections 79-4,122, 79-4,129, 79-4,130, 79-2101, and 79-2110,
10 Revised Statutes Cumulative Supplement, 2006, are repealed.