

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 617

Introduced by Larson, 40; Schilz, 47.

Read first time January 21, 2015

Committee: Education

- 1 A BILL FOR AN ACT relating to schools; to adopt the Working to Improve
- 2 Nebraska Schools Act; and to provide severability.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. This act shall be known and may be cited as the Working
2 to Improve Nebraska Schools Act.

3 Sec. 2. It is the intent of the Legislature that:

4 (1) Each student's progression from one grade to the next grade be
5 determined, in part, by his or her proficiency in reading;

6 (2) School board policies facilitate reading instruction and
7 intervention services to address student reading needs;

8 (3) Each student and his or her parent be informed of the student's
9 reading progress; and

10 (4) Each student in a public school be able to read at or above
11 grade level by grade three.

12 Sec. 3. School districts shall offer an accelerated reading
13 intervention program to each student in kindergarten, first grade, second
14 grade, and third grade who exhibits a reading deficiency, for the purpose
15 of preventing grade three student retention. The accelerated reading
16 intervention program shall:

17 (1) Be provided to all students in kindergarten, first grade, second
18 grade, and third grade who are identified as having a reading deficiency
19 based upon state-approved local or statewide assessments;

20 (2) Screen and monitor the reading progress of each student's
21 foundational reading skills no fewer than three times per year;

22 (3) Provide highly effective core reading instruction that is
23 comprehensive and meets the majority of the general education classroom
24 needs; and

25 (4) Meet at least the following specifications:

26 (a) Assist students exhibiting a reading deficiency in developing
27 the ability to read at grade level;

28 (b) Provide intensive development in phonemic awareness, phonics,
29 fluency, vocabulary, and reading comprehension;

30 (c) Provide scientifically based reliable and valid assessments;

31 (d) Provide initial and ongoing analysis of each student's reading

1 progress; and

2 (e) Be implemented during regular school hours in addition to the
3 regular reading instruction.

4 Sec. 4. Any student who exhibits a deficiency in reading at any
5 time, based upon state-approved local or statewide assessments conducted
6 in grades kindergarten, one, two, or three shall receive an individual
7 reading improvement plan no later than thirty days after identification
8 of the reading deficiency. The reading improvement plan shall be created
9 by the teacher, the principal, other pertinent school personnel, and the
10 parents of the student and shall describe the reading intervention
11 services the student will receive to remedy the reading deficit. Each
12 student receiving reading intervention services shall be screened and his
13 or her progress monitored no fewer than three times per year and be
14 provided with intensive reading intervention services until the student
15 no longer has a reading deficiency.

16 Sec. 5. The school of any student in kindergarten, grade one, grade
17 two, or grade three, which student exhibits a deficiency in reading at
18 any time during the school year, shall notify the student's parent in
19 writing no later than thirty days after the identification of the reading
20 deficiency. The written notification shall include the following:

21 (1) That his or her child has been identified as having a deficiency
22 in reading and an individual reading improvement plan will be established
23 by the teacher, the principal, other pertinent school personnel, and the
24 parent;

25 (2) A description of the current services that are provided to the
26 child;

27 (3) A description of the proposed reading intervention and
28 supplemental instructional services and support that will be provided to
29 the child which are designed to remedy the identified area or areas of
30 reading deficiency;

31 (4) Strategies for parents to use at home in helping the child

1 succeed in reading;

2 (5) That if the student's reading deficiency is not corrected by the
3 end of grade three, the student will not be promoted to grade four unless
4 he or she qualifies for an exemption pursuant to section 7 of this act;
5 and

6 (6) That while the statewide assessment is the initial determinant
7 for promotion at the end of grade three, it is not the sole determinant
8 of promotion and that additional evaluations, including, but not limited
9 to, portfolio reviews and alternative assessments, are available pursuant
10 to such exemptions.

11 Sec. 6. (1) Beginning with school year 2016-17, if the student's
12 reading deficiency identified pursuant to section 5 of this act is not
13 remedied by the end of grade three as demonstrated by the student scoring
14 below grade level on the grade three statewide reading assessment, the
15 student must be retained in grade three unless he or she qualifies for an
16 exemption pursuant to section 7 of this act.

17 (2) Each school district shall provide summer reading camps to all
18 grade three students scoring below grade level on the grade three
19 statewide reading assessment. Summer reading camps shall be staffed with
20 teachers of reading who have attained master teacher status pursuant to
21 the Master Teacher Program Act. The master teacher shall provide reading
22 intervention services and support to correct the identified area or areas
23 of reading deficiency.

24 Sec. 7. (1) A school board may only exempt students from mandatory
25 retention pursuant to section 6 of this act for good cause. The exemption
26 shall apply to the following students:

27 (a) A student who demonstrates grade level performance on an
28 alternative standardized reading assessment approved by the State Board
29 of Education;

30 (b) A student who demonstrates, through a student portfolio, grade
31 level performance as evidenced by demonstrating mastery of all grade

1 three state reading standards through multiple work samples;

2 (c) A child with a disability as defined in section 79-1117 who has
3 an individualized education plan which indicates that participation in
4 the statewide assessment program is not appropriate;

5 (d) A limited English proficiency student as defined in section
6 79-1003 who has had less than two years of instruction pursuant to a
7 limited English proficiency plan;

8 (e) A child with a disability as defined in section 79-1117 who
9 participates in the statewide assessment and has an individualized
10 education plan that reflects that the student has received intensive
11 reading intervention services for more than two years but still
12 demonstrates a deficiency in reading and was previously retained in
13 kindergarten, grade one, grade two, or grade three; and

14 (f) A student who has received intensive reading intervention
15 services for two or more years but still demonstrates a deficiency in
16 reading and who was previously retained in kindergarten, grade one, grade
17 two, or grade three for a total of two years.

18 (2) A request to exempt a student from mandatory retention pursuant
19 to one of the exemptions described in subsection (1) of this section
20 shall be made as follows:

21 (a) The student's teacher shall submit documentation to the school
22 principal recommending promotion of the student. Such documentation shall
23 consist of only material supporting the exemption being requested, the
24 existing reading improvement plan or individualized education plan, and
25 the alternative assessment or student portfolio results as applicable;
26 and

27 (b) The school principal shall review and discuss the recommendation
28 with the teacher and make the determination as to whether the student
29 should be promoted. If the principal determines that the student should
30 be promoted based on the documentation provided, the principal shall make
31 such recommendation in writing to the superintendent of the school

1 district. The superintendent shall accept or reject the principal's
2 recommendation in writing.

3 (3) If a student is promoted to grade four with an exemption
4 pursuant to this section, his or her school shall provide the student
5 with intensive reading intervention services that include specialized
6 diagnostic information and specific reading strategies to meet the needs
7 of such student. The school district shall assist schools and teachers
8 with the implementation of reading strategies demonstrated by research to
9 be successful in improving reading among students with reading
10 deficiencies.

11 Sec. 8. A school district shall assist schools with providing
12 written notification to the parent of any student who is retained
13 pursuant to section 6 of this act that such student has not met the
14 proficiency level required for promotion, the reasons the student is not
15 eligible for an exemption pursuant to section 7 of this act, and that the
16 student will be retained in grade three. The notification shall include a
17 description of the proposed interventions and support that will be
18 provided to the student to remedy the identified area or areas of reading
19 deficiency.

20 Sec. 9. Beginning with school year 2016-17, the school of any
21 student retained pursuant to section 6 of this act shall provide such
22 student with intensive reading intervention to remedy the student's
23 specific reading deficiency, as identified by a valid and reliable
24 diagnostic assessment. Such reading intervention services shall include
25 effective instructional strategies necessary to assist such student in
26 becoming a successful reader and ready for promotion to the next grade.
27 Each school district shall:

28 (1) Conduct a review of student reading improvement plans for all
29 students who scored below grade level on the reading portion of the
30 statewide assessment and who did not meet the criteria for one of the
31 exemptions under section 7 of this act. The review shall address

1 additional support and services as described in this section which are
2 available to correct the identified area or areas of reading deficiency;

3 (2) Provide retained students with teachers of reading who have
4 attained master teacher status pursuant to the Master Teacher Program
5 Act;

6 (3) Provide retained students with reading intervention services and
7 support to correct the identified area or areas of reading deficiency,
8 including, but not limited to:

9 (a) More dedicated time than the previous school year spent in
10 reading instruction and intervention which is based in scientific
11 research;

12 (b) Daily targeted small group reading intervention based on student
13 needs as determined by diagnostic assessment data;

14 (c) Reading programs based in scientific research which have
15 demonstrated results in accelerating student reading achievement within
16 the same school year;

17 (d) Explicit and systematic instruction with more detailed
18 explanations, more extensive opportunities for guided practice, and more
19 opportunities for error correction and feedback;

20 (e) Administration of assessments to frequently monitor student
21 progress; and

22 (f) Before-school or after-school supplemental reading intervention
23 based in research, delivered by a teacher or tutor with specialized
24 reading training; and

25 (4) Provide parents of retained students with a read-at-home plan
26 outlined in a parental contract, including, but not limited to,
27 participation in parent training workshops and regular parent-guided home
28 reading.

29 Sec. 10. (1) Each public school shall establish an intensive
30 acceleration class for any student retained in grade three who was
31 previously retained in kindergarten, grade one, grade two, or grade

1 three. The focus of the intensive acceleration class shall be to increase
2 a child's reading level at least two grade levels in one school year.

3 (2) The intensive acceleration class shall:

4 (a) Have a reduced teacher-student ratio;

5 (b) Provide students with teachers of reading who have attained
6 master teacher status pursuant to the Master Teacher Program Act;

7 (c) Provide reading instruction and intervention for the majority of
8 student contact time each day and incorporate opportunities to master the
9 grade four state standards in other core academic areas;

10 (d) Use reading programs based in scientific research which have
11 proven results in accelerating student reading achievement within the
12 same school year;

13 (e) Provide intensive language and vocabulary instruction,
14 including, but not limited to, use of a speech-language therapist;

15 (f) Administer assessments to frequently monitor student progress;

16 (g) Provide students the option of being placed in a transitional
17 instructional setting. Such setting shall be designed specifically to
18 produce learning gains sufficient to meet grade four performance
19 standards while continuing to correct the area or areas of reading
20 deficiency;

21 (h) Provide before-school or after-school supplemental reading
22 instruction based in research and delivered by a teacher or tutor with
23 specialized reading training; and

24 (i) Provide parents with a read-at-home plan outlined in a parental
25 contract, including, but not limited to, participation in parent training
26 workshops and regular parent-guided home reading.

27 (3) Each school district shall report to the State Department of
28 Education, in the manner prescribed by the department, the progress of
29 every student enrolled in the intensive acceleration class at the end of
30 the first semester.

31 Sec. 11. By September 1 of each year, each school board shall

1 annually report in writing to the State Department of Education the
2 following information on the prior school year:

3 (1) The school board's policies and procedures on student retention
4 and promotion;

5 (2) By grade, the number and percentage of all students in grades
6 kindergarten, one, two, and three who were identified with a reading
7 deficiency at the beginning of the school year and who met grade level
8 standards at the end of the school year, as demonstrated by achieving a
9 passing score on the state-approved local assessment or statewide
10 assessment;

11 (3) By grade, the number and percentage of all students in grades
12 kindergarten, one, two, and three performing below grade level on the
13 state-approved local assessment or statewide assessment;

14 (4) By grade, the number and percentage of all students retained in
15 grades kindergarten, one, two, and three;

16 (5) Information on the total number and percentage of students in
17 grade three who were promoted pursuant to an exemption pursuant to
18 section 7 of this act, by each category of good cause described in such
19 section; and

20 (6) Any revisions to the school board's policy on student retention
21 and promotion from the prior year's report.

22 Sec. 12. The State Department of Education shall establish a
23 uniform format for school districts to report the information required
24 pursuant to section 11 of this act. The format shall be developed with
25 input from school boards and shall be provided to each school district no
26 later than ninety days prior to the annual due date. The department shall
27 annually compile the information required along with state-level summary
28 information and report such information to the State Board of Education,
29 the public, the Governor, and electronically to the Legislature by
30 October 1 of each year. The department shall provide technical assistance
31 as needed to assist school boards in carrying out this section.

1 Sec. 13. For purposes of sections 13 to 20 of this act:

2 (1) Department means the State Department of Education or an
3 organization chosen by the state; and

4 (2) Statewide assessment means the statewide assessment conducted
5 pursuant to the Quality Education Accountability Act.

6 Sec. 14. The department shall prepare an annual report of the
7 results of the statewide assessment to describe student achievement in
8 the state as a whole, in each school district, and in each school. The
9 annual report shall include, but not be limited to:

10 (1) Descriptions of the performance of all schools participating in
11 the statewide assessment system and all of their major student
12 populations as determined by the department; and

13 (2) The median scores of all eligible students who scored in the
14 lowest twenty-fifth percentile on the statewide assessment in the
15 previous reporting period, except that the provisions of the federal
16 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as
17 such act existed on January 1, 2015, pertaining to student records and
18 any Nebraska laws pertaining to privacy of student records apply to this
19 section.

20 Sec. 15. (1) The annual report required pursuant to section 14 of
21 this act shall grade each public school pursuant to the grading scale in
22 this subsection:

23 (a) A – Making excellent progress;

24 (b) B – Making above-average progress;

25 (c) C – Making satisfactory progress;

26 (d) D – Making less than satisfactory progress; and

27 (e) F – Failing to make adequate progress.

28 (2) The department shall develop school awards for schools that
29 improve at least one grade level over the previous reporting period or
30 maintain a grade of A.

31 (3) Each school with a grade of A or having improved at least two

1 grade levels over the previous reporting period shall have greater
2 authority over the allocation of the school's total budget, state
3 categorical funds, funds from the Education Innovation Fund, grants, and
4 local funds as specified in rules and regulations of the State Board of
5 Education. Such rules and regulations shall provide that the increased
6 budget authority shall remain in effect until the school's grade pursuant
7 to subsection (1) of this section is reduced.

8 Sec. 16. (1) Each school which has students who are tested and
9 included in the school grading system described in section 15 of this act
10 shall earn a school grade, except that a school shall not earn a school
11 grade if the number of its students tested and included in the school
12 grading system is less than the minimum sample size necessary, based on
13 accepted professional practice, for statistical reliability and for
14 prevention of the unlawful release of personally identifiable student
15 data under the federal Family Educational Rights and Privacy Act of 1974,
16 20 U.S.C. 1232g, as such act existed on January 1, 2015, pertaining to
17 student records and any Nebraska laws pertaining to privacy of student
18 records.

19 (2) A school's grade shall be based on a combination of:

20 (a) Student achievement scores on the statewide assessment for all
21 students enrolled in the school;

22 (b) Student learning gains for all students enrolled in the school
23 as measured by the statewide assessment; and

24 (c) Student learning gains of the students enrolled in the school
25 scoring in the lowest twenty-fifth percentile in reading and mathematics
26 on the statewide assessment.

27 (3) The department shall determine school grades based on the
28 following percentages: (a) Fifty percent on overall student achievement;
29 (b) twenty-five percent on the learning gains of all students; and (c)
30 twenty-five percent on the learning gains of the students enrolled in the
31 school scoring in the lowest twenty-fifth percentile in reading and

1 mathematics.

2 (4) Student assessment data used in determining school grades shall
3 include:

4 (a) The aggregate scores of all eligible students enrolled in the
5 school who have been assessed on the statewide assessment;

6 (b) The learning gain scores of all eligible students enrolled in
7 the school who have been assessed on the statewide assessment and who
8 have scored at or in the lowest twenty-fifth percentile of students in
9 the school in reading and mathematics on such statewide assessment; and

10 (c) The learning gain scores of all eligible students.

11 For purposes of this subsection, eligible student does not include a
12 student attending an alternative school who is subject to school board
13 policies for expulsion for repeated or serious offenses, who is in a
14 dropout retrieval program serving students who have officially been
15 designated as dropouts, or who is in a program operated by the Office of
16 Juvenile Services.

17 Sec. 17. The department shall annually develop, in collaboration
18 with the school districts, a school report card to be delivered to
19 parents of students enrolled in each school district. The report card
20 shall include the school's grade pursuant to section 15 of this act,
21 information regarding school improvement, an explanation of school
22 performance as evaluated by the federal No Child Left Behind Act of 2001,
23 as such act existed on January 1, 2015, and indicators of return on
24 investment. The department on its web site shall publish each school's
25 report card annually, and the school district shall provide the school
26 report card to each parent.

27 Sec. 18. The annual report required by section 14 of this act shall
28 include a school district grade. Such school district grade shall be
29 based on a combination of:

30 (a) Student achievement scores on the statewide assessment for all
31 students enrolled in the school district;

1 (b) Student learning gains for all students enrolled in the school
2 district as measured by the statewide assessment; and

3 (c) Student learning gains of the students enrolled in the school
4 district scoring in the lowest twenty-fifth percentile in reading and
5 mathematics on the statewide assessment.

6 Sec. 19. In any year in which eighty percent or more in the
7 aggregate of elementary, middle, or high schools earn a grade of A or B,
8 the department shall raise the number of points required to earn a school
9 grade for that level of school by five percent statewide.

10 Sec. 20. The Legislature may use the performance of schools as
11 determined by their grade pursuant to section 15 of this act as a factor
12 in calculating any performance-based funding.

13 Sec. 21. In addition to teachers' certificates issued pursuant to
14 sections 79-806 to 79-815, certificates to teach in the public schools in
15 Nebraska shall be granted by the State Board of Education, under rules
16 and regulations prescribed by it, as follows:

17 (1) On the basis of college credit or on the basis of passage of an
18 examination;

19 (2) To any person who presents to the state board a valid doctoral
20 degree from a postsecondary educational institution accredited by a
21 regional accrediting agency. Such certificate shall be limited to the
22 major area of postgraduate study of the holder;

23 (3) To any person holding a valid teaching certificate issued by a
24 national or regional educator credentialing agency approved by the state
25 board. Such certificate holder shall annually complete the requirements
26 for such certification pursuant to rules and regulations of the state
27 board;

28 (4) To any person who possesses a valid teaching certificate from
29 another state. Such certificate holder shall annually complete the
30 requirements for such certification pursuant to rules and regulations of
31 the state board;

1 (5) Pursuant to an alternative certification program developed by
2 the State Department of Education pursuant to rules and regulations of
3 the state board; and

4 (6) To any person who has at least two years of teaching experience
5 at the postsecondary level.

6 Issuance of a certificate under this section shall be subject to a
7 criminal history record information check pursuant to section 79-814.01.

8 Sec. 22. The State Board of Education by rules and regulations
9 shall provide for the issuance of an adjunct teaching certificate to any
10 applicant who has expertise in the subject area to be taught and fulfills
11 the requirements of the rules and regulations. An applicant shall be
12 considered to have expertise in the subject area to be taught if the
13 applicant demonstrates sufficient content mastery through passage of a
14 subject area examination. The adjunct teaching certificate shall only be
15 used for a part-time teaching position. Each adjunct teaching certificate
16 is valid for five school years and is renewable if the applicant has
17 received satisfactory performance evaluations during each year of
18 teaching under the adjunct teaching certificate.

19 Sec. 23. The Legislature finds that:

20 (1) There is a need for a performance-based incentive program for
21 outstanding faculty and staff in highly productive schools offering
22 instruction in any of grades kindergarten through twelve; and

23 (2) Performance-based incentives are commonplace in the private
24 sector and should be introduced into the public sector as a reward for
25 productivity.

26 Sec. 24. (1) The School Recognition Program is created. The purpose
27 of the program is to provide financial awards to public schools that:

28 (a) Sustain high performance by earning a grade of A pursuant to
29 section 15 of this act; or

30 (b) Demonstrate exemplary performance by improving at least one
31 letter grade or by improving more than one letter grade pursuant to the

1 act and sustaining the improvement the following school year.

2 (2) All public schools which earn a school grade pursuant to
3 sections 13 to 20 of this act are eligible to participate in the School
4 Recognition Program.

5 (3) All eligible schools shall receive financial awards depending on
6 the availability of funds appropriated and the number and size of schools
7 selected to receive an award. Funds shall be distributed to the school's
8 fiscal agent and placed in the school's account and may only be used for
9 purposes listed in section 25 of this act as determined jointly by the
10 school's staff. If school staff cannot reach agreement by November 1 of
11 the year in which the award is made, the funds shall be distributed by
12 the school's principal pursuant to section 25 of this act.

13 Sec. 25. Awards under the School Recognition Program may only be
14 used for:

15 (1) Nonrecurring bonuses to the faculty and staff of the school;

16 (2) Nonrecurring expenditures for educational equipment or materials
17 to assist in maintaining and improving student performance; or

18 (3) Temporary personnel for the school to assist in maintaining and
19 improving student performance.

20 Sec. 26. Awards under the School Recognition Program are not
21 subject to collective bargaining pursuant to the Industrial Relations
22 Act.

23 Sec. 27. Notwithstanding any other provision of law, the transfer
24 of a teacher under contract with a school district to another school
25 within such district shall not take effect until such transfer is
26 approved by the principal of the receiving school.

27 Sec. 28. The State Board of Education may adopt and promulgate
28 rules and regulations to carry out the Working to Improve Nebraska
29 Schools Act.

30 Sec. 29. If any section in this act or any part of any section is
31 declared invalid or unconstitutional, the declaration shall not affect

1 the validity or constitutionality of the remaining portions.