

ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB675

Hearing Date: Tuesday February 26, 2019
Committee On: Education
Introducer: Groene
One Liner: Change provisions relating to education

Roll Call Vote - Final Committee Action:

Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Brewer, Groene, Kolowski, Linehan, Murman, Pansing Brooks, Walz
Nay:		
Absent:	1	Senator Morfeld
Present Not Voting:		

Oral Testimony:

Proponents:

SENATOR MIKE GROENE
BRIAN HALSTEAD

Representing:

INTRODUCER
NEBRASKA DEPARTMENT OF EDUCATION

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

Brief Summary

LB 675 was introduced on behalf of the Nebraska Department of Education. The bill cleans up education related statutes by eliminating obsolete or unnecessary provisions, defining terms, and clarifying provisions.

One primary change to the law is found in Section 2 of LB 675. Section 2 proposes to change the amount of time a school board can enter into a contract from four (4) years to seven (7) years with providers of utility services, refuse disposal, transportation services, maintenance services, financial services, insurance, security services, insurance, security services, and instructional materials, supplies, and equipment.

LB 675 also updates the duties of the Educational Technology Center. The mission of the Educational Technology Center is essentially to help integrate technology in schools and provide technological support to educators. In addition to already prescribed duties, the Educational Technology Center would also be responsible for evaluating open education resources, provide technical assistance to educators with internet-based resources, provide training to educators in the use of digital devices (not just computers), support research and recommendations for digital applications (instead of experiment with applications), and seek partnerships with various institutions and entities, including (pursuant to LB 675) the Office of the Chief Information Officer and Network Nebraska.

Obsolete language is removed from statutes in sections 4, 5, 8, 9, 10, 13, 17, 27, 31, 32, and 34.

Statutory language is clarified or harmonized in sections 8, 10, 11, 12, 14, 15, 16, 19, 20, 21, 22, 23, 25, 26, 28, 29, 32,

33, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 47, 48, 49, 50, 51, 53, 54, and 55.

Section-by-Section Summary

Section 1

Section 1 removes the provision that the State Board of Education shall accept devises, donations, or bequests received by the State Department of Education pursuant to Neb. Rev. Stat. Sec. 79-2206 in order to administer the Interstate Compact on Educational Opportunity for Military Children.

Neb. Rev. Stat. Sec. 79-2206 is proposed for outright repeal in Section 57.

Section 2

Section 2 proposes to change the amount of time a school board can enter into a contract for from four years to seven years with providers of:

- a) utility services;
- b) refuse disposal;
- c) transportation services;
- d) maintenance services;
- e) financial services;
- f) insurance;
- g) security services; and
- h) instructional materials, supplies, and equipment.

The time periods for collective-bargaining agreements with employees would remain unchanged. These contracts cannot exceed four years.

Section 3

LB 675 removes the provision that the math examination taken by teacher education students does not need to be taken at a standard institution of higher learning.

Section 4

Section 4 cleans up some of the definitions in the Tax Equity and Educational Opportunities Support Act (TEEOSA), found at Neb. Rev. Stat. Sec. 79-1003.

Specifically, on page 10, lines 14-16 obsolete language applying to school fiscal year 2017-18 is stricken from the definition of "allocated income tax funds." The definition of "equalization aid" is simplified to reference the statute that determines the equalization amount (Neb. Rev. Stat. Sec. 79-1008.01).

Section 5

Section 5 strikes obsolete language referencing Neb. Rev. Stat. Sec. 79-1008.02, which is an obsolete statute proposed for repeal by LB 675.

Section 6

Pursuant to Neb. Rev. Stat. Sec. 79-258, superintendents are required to submit annual financial reports to the Commissioner of Education. This financial report is required to include certain information, such as the information described under Neb. Rev. Stat. Sec. 79-1007.07 pertaining to the poverty allowance under TEEOSA.

LB 675 removes the requirement that the superintendents include in this report the method that was used to allocate money to each poverty-related program and within the poverty-related program.

Section 7

Similar to Section 6, LB 675 removes the requirement that the superintendent describe in the annual financial report the method used to allocate money to limited English proficiency program and within the program.

Section 8

Section 8 removes obsolete language applying to school fiscal year 2017-18 and simplifies language in Neb. Rev. Stat. Sec. 79-1008.01.

The statutory references are simplified and updated to the appropriate statutes: Neb. Rev. Stat. Sec. 79-1007.11 for total formula need and Sec. 79-1017.01 for total formula resources.

LB 675 also clarifies that the equalization aid for a local system is zero if the total formula resources equals or exceeds the total formula need for such local system.

Section 9

Section 9 updates the TEEOSA statute which determines local system resources. Obsolete language applying to fiscal years 2014-15, 2015-16, 2016-17, and years prior to 2017-18 is removed.

Section 10

Obsolete language applying to 2017 and school fiscal years prior to 2017-18 is removed in Neb. Rev. Stat. Sec. 79-1022.

All instances of "district" are changed to "local system."

Section 11

Section 11 incorporates the new definition of "Department" into the Special Education Act.

Section 12

New definitions found in Section 14 of this bill are incorporated into the Special Education Act.

Section 13

Section 13 strikes language applying to school fiscal years 1999-2000 and prior years in Neb. Rev. Stat. Sec. 79-1115.

Section 14

"Children with disabilities" is amended to read "child with a disability" in Neb. Rev. Stat. Sec. 79-1115.01.

Section 15

Section 15 amends the definition of a child with a disability to clarify that the provisions apply to persons until they are twenty-one years old or until the end of the school year, whichever is later.

The provisions of the Special Education Act already apply to these children. Instead of repeating this long phrase each

time, "child with a disability" is defined to include this language.

Section 16

Section 16 adds a new definition to the Special Education Act: "Department means the State Department of Education."

Section 17

Section 17 strikes obsolete language applying to fiscal year 2015-16 and prior years in Neb. Rev. Stat. Sec. 79-1119.

Section 18

LB 675 amends the definition of "interim-program school" so that interim-program schools can include public or private facilities (that are not owned or operated by a school district), which provide a residential program and regular educational or special education services approved by the State Department of Education that do not provide a special education rate. Currently these facilities must provide a special education rate for the program and services to meet the definition of "interim-program school."

Section 19

Section 19 simplifies Neb. Rev. Stat. Sec. 79-1122 by taking out redundant and unnecessary language.

Section 20

By clarifying and redefining "child with a disability" pursuant to Section 15 of this bill, the reference to a child with a disability is simplified.

Specifically, since "child with a disability" means "a person with a disability . . . that has been verified . . . from the date of such verification until he or she is twenty-one years of age or, if his or her twenty-first birthday occurs during a school year, until the end of such school year," this extra description is not necessary anymore in Neb. Rev. Stat. Sec. 79-1124.

Section 21

Similar to Section 20, specific defining language is no longer necessary in Neb. Rev. Stat. Sec. 79-1125.01 due to redefining "child with a disability" in Section 15.

Section 22

Neb. Rev. Stat. Sec. 79-1126 clarifies to whom the Special Education Act applies. Currently, the Special Education Act applies to a child with a disability beginning from the date of diagnosis or the date the school district is notified. "Child with a disability" under current law (Neb. Rev. Stat. Sec. 79-1117) means a child with a verified disability. LB 675 makes these provisions consistent by using the new definition of "child with a disability" in that the Special Education Act applies beginning on the date the disability is verified.

"State Department of Education" is changed to "department", which is consistent with the added statutory definition of "department."

Current law requires the Department of Education's vocational rehabilitation division to assume responsibility of training for persons whose education or training is terminated and require additional supportive services. LB 675 clarifies that this applies when education or training under the Special Education Act terminates.

Section 23

The "board of education of every school district" is changed to "school board of every school district." For the purposes

of chapter 79, "school board" and "board of education" are synonymous.

The date of reference for the federal Individuals with Disabilities Education Act is updated to January 1, 2019.

Section 24

Section 24 strikes permissive language allowing school districts to offer special education programs, which are required by Neb. Rev. Stat. Sec. 79-1127, by contracting with another school district or service agency, or by some combination of school districts, an ESU, a combination of ESUs, the local regional office of intellectual disability, any program approved by the State of Nebraska, or any combination of these.

Section 25

Section 25 simplifies Neb. Rev. Stat. Sec. 79-1129 by rearranging provisions and consequently removing redundant terms or phrases.

Section 26

Consistent with the newly added definition of "department" found in Section 16, "State Department of Education" is replaced with "department" in Neb. Rev. Stat. Sec. 79-1130.

Section 27

Section 27 removes the provision that permits ESUs or cooperatives of school districts recognized as regional planning entities by the State Board of Education to receive grants for cooperative programs for children with disabilities who are less than five years old.

The language regarding the amount of such grants and obsolete language is removed.

Section 28

"State Department of Education" is changed to "department" in Neb. Rev. Stat. Sec. 79-1135.

Section 29

An unnecessary statutory reference to Neb. Rev. Stat. Sec. 79-1126 is removed from Sec. 79-1136.

Section 30

Section 30 directs the Commissioner of Education, instead of the State Board of Education, to develop guidelines to assist school districts, educational service units, and approved cooperatives with the assessment, identification, and verification of the need for related services defined in section 79-1121.

Section 31

Section 31 removes obsolete language that applied to students included in education programs pursuant to rules and regulations in effect immediately prior to July 17, 1986. Since the special education programs under this statute only apply to students who are younger than twenty-one years old, no one who was in a special education program at a school in 1986 would be in a special education program at a school today.

Section 32

The second instance of "State Board of Education" is simplified to "board" in Neb. Rev. Stat. Sec. 79-1142.

"State Department of Education" is changed to "department" twice.

Unnecessary language referring to a commencement date of "August 1, 2010" is stricken.

Section 33

Section 33 simplifies language in Neb. Rev. Stat. Sec. 79-1144 and "State Department of Education" is changed to "department" twice.

Currently amendments to any applications for state reimbursement of actual transportation expenses for children with disabilities must be submitted to the department during the school year in which the original application was made. This means if the application was made in the 2018-2019 school year, an amendment cannot be made in the 2019-2020 school year. LB 675 removes the requirement that the amendment to the application be submitted in the same school year as the original application.

Section 34

Section 34 removes obsolete language applying to fiscal years 2016-2017 and 2014-15 and previous years from Neb. Rev. Stat. Sec. 79-1145.

Section 35

"State Department of Education" is changed to "department" in Neb. Rev. Stat. Sec. 79-1147.

Section 36

"State Department of Education" is changed to "department" twice in Neb. Rev. Stat. Sec. 79-1148.

Section 37

Section 37 directs the State Board of Education, instead of the State Department of Education, to adopt and promulgate rules and regulations for the admission to any regional network, school, or center, as provided by Neb. Rev. Stat. Sec. 79-1148.

Section 38

"State Department of Education" is changed to "department" in Neb. Rev. Stat. Sec. 79-1154.

Section 39

"State Department of Education" is changed to "department" in Neb. Rev. Stat. Sec. 79-1155.

Section 40

"State Department of Education" is changed to "department" in Neb. Rev. Stat. Sec. 79-1156.

Section 41

"State Department of Education" is changed to "department" twice in Neb. Rev. Stat. Sec. 79-1157.

Section 33 also strikes unnecessary language and simplifies the statute.

Section 42

"State Department of Education" is changed to "department" in Neb. Rev. Stat. Sec. 79-1158.

Section 43

"State Department of Education" is changed to "department" in Neb. Rev. Stat. Sec. 79-1159.

Section 44

"State Department of Education" is changed to "department" in Neb. Rev. Stat. Sec. 79-1159.01.

Section 45

Section 45 changes the statute directing the State Department of Education to adopt, promulgate, and publish rules and regulations necessary to carry out the Special Education Act. LB 675 changes the State Department of Education to the State Board of Education and states that the State Board may adopt, promulgate, and publish these rules.

Language regarding what these rules should include is stricken, but is already included in the Special Education Act.

Section 46

Section 46 updates the federal statutory reference in Neb. Rev. Stat. Sec. 79-1161.

Section 47

"State Department of Education" is changed to "department" twice in Neb. Rev. Stat. Sec. 79-1162.

Section 48

Section 48 simplifies Neb. Rev. Stat. Sec. 79-1163 by changing "State Department of Education" to "department" and strikes an unnecessary statutory reference.

Section 49

"State Department of Education" is changed to "department" in Neb. Rev. Stat. Sec. 79-1164.

Section 50

"State Department of Education" is changed to "department" in Neb. Rev. Stat. Sec. 79-1167.

Section 51

Neb. Rev. Stat. Sec. 79-1302 declares the legislature's intent to "utilize technology to provide effective and efficient distance learning." "Distance" is changed to "digital."

Section 52

Section 52 updates and provides new duties for the Educational Technology Center.

"Distance education" is changed to "digital education."

The Educational Technology Center would now be required, in addition to their already-prescribed duties, to:

- a) Evaluate open education resources;
- b) Provide technical assistance in working with internet-based resources;
- c) Provide inservice and preservice training in the use of digital devices and communication systems;
- d) Support research and recommendations for digital applications and technology in education; and
- e) To seek partnerships with the Office of the Chief Information Officer and Network Nebraska.

The Educational Technology Center would no longer be required to:

- a) Provide technical assistance to educators in working with hardware;
- b) Provide inservice and preservice training for educators in the use of computers and telecommunications; and
- c) Experiment with various applications or technology.

Section 53

Section 53 amends the definition section of the Interstate Compact on Educational Opportunity for Military Children to exclude the section being repealed by LB 675 (Neb. Rev. Stat. Sec.79-2206).

Section 54

LB 675 repeals Neb. Rev. Stat. Sec. 79-1152 and 79-1153. Section 54 removes references to these statutes in Neb. Rev. Stat. Sec. 83-121.

Section 55

Because a "child with a disability" is redefined in this bill and Neb. Rev. Stat. Sec. 79-1126 is amended accordingly, Neb. Rev. Stat. Sec. 85-1225 is changed to reference to the appropriate statute.

Section 56

In order to amend the relevant statutes, the original versions of the following sections are repealed: 79-515, 79-807, 79-1110, 79-1113, 79-1115, 79-1115.01, 79-1117, 79-1119, 79-1119.01, 79-1122, 79-1124, 79-1125.01, 79-1126, 79-1127, 79-1128, 79-1129, 79-1130, 79-1132, 79-1135, 79-1136, 79-1138, 79-1139, 79-1142, 79-1145, 79-1147, 79-1148, 79-1149, 79-1154, 79-1155, 79-1156, 79-1157, 79-1158, 79-1159, 79-1159.01, 79-1160, 79-1161, 79-1162, 79-1163, 79-1164, 79-1167, 79-1302, 79-1304, 79-2202, 83-121, 83-1225, 79-318, 79-1003, 79-1005.01, 79-1007.07, 14 79-1007.09, 79-1008.01, 79-1017.01, 79-1022, and 79-1144.

Section 57

Neb. Rev. Stat. Sec. 79-527, 79-1007.04, 79-1007.17, 79-1007.23, 79-1007.25, 79-1028.03, 79-1152, 79-1153, 79-1188, 79-2206, and 79-1008.02 are outright repealed.

Neb. Rev. Stat. Sec. 79-1007.04, 79-1007.17, 79-1007.23, 79-1007.25, 79-1008.02, 79-1028.03 are obsolete.

Neb. Rev. Stat. Sec. 79-527:

(1) The superintendent or head administrator of a public school district or a nonpublic school system shall annually report to the Commissioner of Education in such detail and on such date as required by the commissioner the number of students who have dropped out of school. School districts that are members of learning communities shall also provide the learning community coordinating council with a copy of such report on or before the date the report is due to the commissioner.

(2) The superintendent of a public school district shall report on a quarterly basis to the Commissioner of Education as directed by the commissioner regarding individual student information on attendance.

Neb. Rev. Stat. Sec. 79-1152:

No school district shall place a child with a disability in a special education program requiring residential care without advance consultation with the State Department of Education to review the child's needs and the availability and appropriateness of each possible placement in the continuum of alternative services. Applications for approval of special education program placements requiring residential care shall be signed by the parent or legal guardian, submitted via the school district of residence of the child to the State Department of Education, and acted upon by the State Department of Education within thirty days after receipt by the department. If an application is denied, the parent or legal guardian shall be provided written notification by the State Department of Education of his or her right to appeal the decision pursuant to sections 79-1162 to 79-1167 and right to name the State Department of Education as respondent in the appeal proceeding.

The State Department of Education and the Department of Health and Human Services shall annually establish the maximum rates that the state will pay for the ordinary and reasonable cost of residential care placements within the state. After September 6, 1985, children with disabilities whose residential placement was funded by state and regional agencies other than the State Department of Education shall continue to be funded by such agencies.

Neb. Rev. Stat. Sec. 79-1153:

Following residential placement of a child with a disability, the school district of residence and the State Department of Education shall continue efforts to develop appropriate programs closer to the child's home and shall cooperate with the Department of Health and Human Services in preparing families to accommodate returning children with disabilities. The Department of Health and Human Services shall provide consultative services, as defined by mutual agreement between the State Department of Education and the Department of Health and Human Services, to the children with disabilities who were initially provided residential care and to their families.

Neb. Rev. Stat. Sec. 79-1188:

The State Board of Education, with the assistance of the State Department of Education, shall provide a process for the waiver of rules and regulations adopted and promulgated under Chapter 79 as such rules and regulations relate to special education programs and support services related to special education. Such waiver shall not apply to any requirements subject to federal laws or federal rules and regulations. Any entity subject to state rules and regulations for special education may apply for a waiver of such rules and regulations. To the extent practicable, the State Board of Education shall grant or deny a waiver request at the next regularly scheduled meeting of the board following receipt of the written waiver request. The waiver process shall be studied for effectiveness by the State Board of Education.

The board may grant a waiver to the rules and regulations if the process set out by the department is followed.

Neb. Rev. Stat. Sec. 79-2206:

The department shall distribute amounts from the Education Innovation Fund pursuant to section 9-812 and may accept a devise, donation, or bequest to pay for any or all of the cost of administering the Interstate Compact on Educational Opportunity for Military Children under the authority given to the State Board of Education under section 79-318.

Explanation of amendments:

AM 1308 adds Section 1 to LB 675. Section 1 would revise the Tax Equity and Educational Opportunities Support Act (TEEOSA), by reducing the base limitation rate for school districts found under Section 77-3446 (Base limitation, defined) to 2.15% for school fiscal year 2019/20. The current rate for 2018/19 is 1.5%. The effect of this change would be to reduce the amount of increase in TEEOSA Aid provided by the state to school districts for 2019/20 and 2020/21.

The growth for 2019/20 would be 6.3%.

An emergency clause is added.

Section 19 of LB 675 is stricken. The proposed change to the language is not as clear as the current language of the statute.

AM 1308 cleans up a reference to properly incorporate the newly added definition of "Department" into the Special Education Act.

The federal statutory reference in Section 46 is amended for accuracy.

Sections are renumbered due to the changes described above.

Mike Groene, Chairperson