

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 115

FINAL READING

Introduced by Blood, 3; Gragert, 40; Linehan, 39; Crawford, 45; Hunt, 8.

Read first time January 10, 2019

Committee: Education

- 1 A BILL FOR AN ACT relating to schools; to amend section 79-216, Reissue
- 2 Revised Statutes of Nebraska, and section 79-215, Revised Statutes
- 3 Cumulative Supplement, 2018; to change provisions relating to
- 4 enrollment; to harmonize provisions; and to repeal the original
- 5 sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-215, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 79-215 (1) Except as otherwise provided in this section, a student
4 is a resident of the school district where he or she resides and shall be
5 admitted to any such school district upon request without charge.

6 (2) A school board shall admit a student upon request without charge
7 if at least one of the student's parents resides in the school district.

8 (3) A school board shall admit any homeless student upon request
9 without charge if the district is the district in which the student (a)
10 is currently located, (b) attended when permanently housed, or (c) was
11 last enrolled.

12 (4) A school board may allow a student whose residency in the
13 district ceases during a school year to continue attending school in such
14 district for the remainder of that school year.

15 (5) A school board may admit nonresident students to the school
16 district pursuant to a contract with the district where the student is a
17 resident and shall collect tuition pursuant to the contract.

18 (6) A school board may admit nonresident students to the school
19 district pursuant to the enrollment option program as authorized by
20 sections 79-232 to 79-246, and such admission shall be without charge.

21 (7) In order to carry out the provisions of section 79-2201, a
22 school board shall permit children of military families to enroll
23 preliminarily in a school district if a parent presents evidence of
24 military orders that the military family will be stationed in this state
25 during the current or following school year. A student of a military
26 family shall be admitted to the school district without charge upon
27 arrival in Nebraska if the requirements of this section are met ~~For~~
28 ~~school years prior to school year 2017-18, a school board of any school~~
29 ~~district that is a member of a learning community shall admit nonresident~~
30 ~~students to the school district pursuant to the open enrollment~~
31 ~~provisions of a diversity plan in a learning community as authorized by~~

1 ~~section 79-2110, and such admission shall be without charge.~~

2 (8) A school board may admit a student who is a resident of another
3 state to the school district and collect tuition in advance at a rate
4 determined by the school board.

5 (9) When a student as a ward of the state or as a ward of any court
6 (a) has been placed in a school district other than the district in which
7 he or she resided at the time he or she became a ward and such ward does
8 not reside in a foster family home licensed or approved by the Department
9 of Health and Human Services or a foster home maintained or used pursuant
10 to section 83-108.04 or (b) has been placed in any institution which
11 maintains a special education program which has been approved by the
12 State Department of Education and such institution is not owned or
13 operated by the district in which he or she resided at the time he or she
14 became a ward, the cost of his or her education and the required
15 transportation costs associated with the student's education shall be
16 paid by the state, but not in advance, to the receiving school district
17 or approved institution under rules and regulations prescribed by the
18 Department of Health and Human Services and the student shall remain a
19 resident of the district in which he or she resided at the time he or she
20 became a ward. Any student who is a ward of the state or a ward of any
21 court who resides in a foster family home licensed or approved by the
22 Department of Health and Human Services or a foster home maintained or
23 used pursuant to section 83-108.04 shall be deemed a resident of the
24 district in which he or she resided at the time he or she became a foster
25 child, unless it is determined under section 43-1311 or 43-1312 that he
26 or she will not attend such district in which case he or she shall be
27 deemed a resident of the district in which the foster family home or
28 foster home is located.

29 (10)(a) When a student is not a ward of the state or a ward of any
30 court and is residing in a residential setting located in Nebraska for
31 reasons other than to receive an education and the residential setting is

1 operated by a service provider which is certified or licensed by the
2 Department of Health and Human Services or is enrolled in the medical
3 assistance program established pursuant to the Medical Assistance Act and
4 Title XIX or XXI of the federal Social Security Act, as amended, the
5 student shall remain a resident of the district in which he or she
6 resided immediately prior to residing in such residential setting. The
7 resident district for a student who is not a ward of the state or a ward
8 of any court does not change when the student moves from one residential
9 setting to another.

10 (b) If a student is residing in a residential setting as described
11 in subdivision (10)(a) of this section and such residential setting does
12 not maintain an interim-program school as defined in section 79-1119.01
13 or an approved or accredited school, the resident school district shall
14 contract with the district in which such residential setting is located
15 for the provision of all educational services, including all special
16 education services and support services as defined in section 79-1125.01,
17 unless a parent or guardian and the resident school district agree that
18 an appropriate education will be provided by the resident school district
19 while the student is residing in such residential setting. If the
20 resident school district is required to contract, the district in which
21 such residential setting is located shall contract with the resident
22 district and provide all educational services, including all special
23 education services, to the student. If the two districts cannot agree on
24 the amount of the contract, the State Department of Education shall
25 determine the amount to be paid by the resident district to the district
26 in which such residential setting is located based on the needs of the
27 student, approved special education rates, the department's general
28 experience with special education budgets, and the cost per student in
29 the district in which such residential setting is located. Once the
30 contract has been entered into, all legal responsibility for special
31 education and related services shall be transferred to the school

1 district in which the residential setting is located.

2 (c) If a student is residing in a residential setting as described
3 in subdivision (10)(a) of this section and such residential setting
4 maintains an interim-program school as defined in section 79-1119.01 or
5 an approved or accredited school, the department shall reimburse such
6 residential setting for the provision of all educational services,
7 including all special education services and support services, with the
8 amount of payment for all educational services determined pursuant to the
9 average per pupil cost of the service agency as defined in section
10 79-1116. The resident school district shall retain responsibility for
11 such student's individualized education plan, if any. The educational
12 services may be provided through (i) such interim-program school or
13 approved or accredited school, (ii) a contract between the residential
14 setting and the school district in which such residential setting is
15 located, (iii) a contract between the residential setting and another
16 service agency as defined in section 79-1124, or (iv) a combination of
17 such educational service providers.

18 (d) If a school district pays a school district in which a
19 residential setting is located for educational services provided pursuant
20 to subdivision (10)(b) of this section and it is later determined that a
21 different school district was the resident school district for such
22 student at the time such educational services were provided, the school
23 district that was later determined to be the resident school district
24 shall reimburse the school district that initially paid for the
25 educational services one hundred ten percent of the amount paid.

26 (e) A student residing in a residential setting described in this
27 subsection shall be defined as a student with a handicap pursuant to
28 Article VII, section 11, of the Constitution of Nebraska, and as such the
29 state and any political subdivision may contract with institutions not
30 wholly owned or controlled by the state or any political subdivision to
31 provide the educational services to the student if such educational

1 services are nonsectarian in nature.

2 (11) In the case of any individual eighteen years of age or younger
3 who is a ward of the state or any court and who is placed in a county
4 detention home established under section 43-2,110, the cost of his or her
5 education shall be paid by the state, regardless of the district in which
6 he or she resided at the time he or she became a ward, to the agency or
7 institution which: (a) Is selected by the county board with jurisdiction
8 over such detention home; (b) has agreed or contracted with such county
9 board to provide educational services; and (c) has been approved by the
10 State Department of Education pursuant to rules and regulations
11 prescribed by the State Board of Education.

12 (12) No tuition shall be charged for students who may be by law
13 allowed to attend the school without charge.

14 (13) ~~The On a form prescribed by the State Department of Education~~
15 shall establish procedures and criteria for collecting enrollment,
16 admission, and related information needed for any student to attend a
17 school district in this state which shall include, but not be limited to,
18 having , an adult with legal or actual charge or control of a student
19 shall provide through electronic means or other means specified by the
20 department the name of the student, the name of the adult with legal or
21 actual charge or control of the student, the address where the student is
22 or will be residing, and information on how and the telephone number and
23 address where the adult may generally be reached during the school day.
24 ~~If the student is homeless or if the adult does not have a telephone~~
25 ~~number and address where he or she may generally be reached during the~~
26 ~~school day, those parts of the form may be left blank and a box may be~~
27 ~~marked acknowledging that these are the reasons these parts of the form~~
28 ~~were left blank. The adult with legal or actual charge or control of the~~
29 ~~student shall also sign the form.~~

30 (14) The department may adopt and promulgate rules and regulations
31 to carry out the provisions of department's responsibilities under this

1 section.

2 Sec. 2. Section 79-216, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 79-216 In all cases when any person is on active duty as a officer
5 ~~or enlisted~~ member of the United States Army, Navy, Marine Corps, or Air
6 Force ~~is on active duty~~ in the State of Nebraska and is residing on
7 federally owned property, acquired by the United States pursuant to
8 ~~Chapter 72, article 6, prior to the repeal of such article by Laws 1969,~~
9 ~~Chapter 593, the children~~ any child of school age of any such active duty
10 ~~officer or enlisted~~ member who also resides on such property shall be
11 considered a resident of the school district where such property is
12 located and are of school age may be admitted pursuant to subsection (1)
13 of section 79-215 to ~~any of the public schools in any school district,~~
14 ~~in, near, or adjacent to the place where such officer or enlisted member~~
15 ~~is stationed so long as such officer or enlisted member is on active duty~~
16 ~~in Nebraska, and such children may be admitted to the public schools of~~
17 ~~any such district without payment of tuition.~~

18 This section also applies to children of parents employed by the
19 federal government and residing with their parents on the property of
20 national parks or national monuments within this state.

21 Sec. 3. Original section 79-216, Reissue Revised Statutes of
22 Nebraska, and section 79-215, Revised Statutes Cumulative Supplement,
23 2018, are repealed.