

**ONE HUNDRED SEVENTH LEGISLATURE - FIRST SESSION - 2021**  
**COMMITTEE STATEMENT**  
**LB673**

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**Hearing Date:** Tuesday February 09, 2021  
**Committee On:** Education  
**Introducer:** Murman  
**One Liner:** Adopt the Education Behavioral Awareness and Support Act and change the determination and certification of state aid to schools

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**Roll Call Vote - Final Committee Action:**  
Indefinitely postponed

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**Vote Results:**  
**Aye:** 5 Senators Day, McKinney, Morfeld, Pansing Brooks, Walz  
**Nay:** 3 Senators Linehan, Murman, Sanders  
**Absent:**  
**Present Not Voting:**

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**Oral Testimony:**

**Proponents:**  
Dave Murman  
Mark Bonkiewicz

**Representing:**  
Introducer  
Self

**Opponents:**  
Edison McDonald  
Brad Meurrens  
Spencer Head  
Amy Bonn  
Rose Godinez  
Kristen Larsen  
Leo Louis II

**Representing:**  
The Arc of Nebraska  
Disability Rights Nebraska  
Omaha Public School  
Self  
ACLU of Nebraska  
Nebraska Council on Developmental Disabilities  
Self

**Neutral:**

**Representing:**

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**Submitted Written Testimony:**

**Proponents:**

**Representing:**

**Opponents:**  
Elizabeth Eynon-kokrda  
Julie Erickson

**Representing:**  
Education Rights Counsel  
Voices for Children

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

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## Section 1: Creates the Education Behavioral Awareness and Support Act

Section 2: LB673 requires each school district to provide behavioral training to administrators, teachers, paraprofessionals, school nurses, and counselors. At the discretion of the school district training may be provided to any other school employees. All school employees are required to have a basic awareness of the goals, strategies, and schoolwide plans included in such training. The training shall be offered annually and every employee listed in this act who has received this training is required to receive a training review every three years.

Specifies that any legal protections and defenses for school employees shall not be made contingent on whether that employee has received a certain level of training.

Enumerates the baseline substantive requirements that a behavioral awareness and intervention training program must have, including:

- (a) Recognizing detrimental factors impacting student behavior including signs of trauma
- (b) Positive behavior support and proactive teaching strategies, including expectations and boundaries
- (c) Verbal intervention and de-escalation techniques
- (d) Clear guidelines on removing and returning students to class
- (e) Behavioral interventions and supports that will take place when the student is outside of the classroom
- (f) Physical intervention for safety

Such training must be consistent with the Student Discipline Act, include an awareness of the protections for school personnel found in the Act, as well as awareness of the requirement for written consent of a parent or guardian pursuant to Neb. Rev. Stat. Sec. 79-258.

In addition, this act requires schools to designate at least one employee as the behavioral awareness and intervention point of contact. The employee must have received behavioral awareness and intervention training.

Requires a school to maintain or have access to a registry of local mental health and counseling resources. The behavioral awareness and intervention point of contact is tasked with coordinating access to those services with students whenever possible. If information about external services is provided to a student, the school shall notify the parent or guardian unless law enforcement or child protective services is involved. Each school must also list its behavioral awareness and intervention point of contact on the school's website and directory.

Requires schools to submit their proposed training plan, on or before September 1, 2021, and September 1 of each year thereafter, to the State School Security Director. The report will summarize how the training plan meets or exceeds the baseline substantive requirements found in this section.

Provides that the training in this section shall be funded from the Behavioral Training Cash Fund. Any school district that fails to file the required report with the State School Security Director or is found to be in noncompliance shall not receive funding provided by this section. By October 31, 2021, and each October 31 thereafter, the State School Security Director will determine and certify the compliance of each plan.

Section 3: Creates the Behavioral Training Cash Fund to be administered by the State Department of Education consisting

of money received from the Lottery fund pursuant to section 9-812 and any money appropriated by the Legislature.

Section 4: Allows teachers and other school personnel to use reasonable physical intervention to safely manage the behavior of a student in order to:

- a) Protect such student, another student, a teacher or school personnel, or another person from physical injury;
- b) Secure property in the possession of such student if the possession of such property by such student poses a threat of physical injury to such student, another student, a teacher or other school personnel, or another person.

Physical intervention by a teacher or other school personnel pursuant to this subdivision shall not be used for the purpose of inflicting bodily pain as a penalty for disapproved behavior. Following the use of physical intervention the affected parent or guardian shall be notified.

No teacher or other school personnel shall be subject to professional or administrative discipline and no teacher, other school personnel, or school district shall be held criminally or civilly liable for the use of physical intervention pursuant to this section if such physical intervention was reasonable.

Section 5: Requires each school district to have a policy that describes the process of removing and returning a student to a class. The policy is required to:

- a) Describe how and when a student may be removed from a class and returned to a class;
- b) Use a discipline process that is proactive, instructive, and restorative;
- c) Require appropriate communication between administrators, teachers

This policy is required to be made available to the public. Unless prohibited by the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., or a plan developed pursuant to section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as such acts existed on January 1, 2021, an administrator and their designee shall comply with the teachers request to have the student removed.

The goal must be to return the student to the class as soon as possible after appropriate instructional or behavioral interventions or supports have been implemented. Students who exhibit a pattern of disruptive behavior shall be provided additional interventions or supports.

States that no teacher or other school personnel shall be subject to professional or administrative discipline or be held criminally or civilly liable for the removal of a student from a class pursuant to this section if such teacher or other school personnel acted in a reasonable manner and in accordance with school policy.

Section 6: Allows the State Department of Education to adopt and promulgate rules and regulations to carry out this Act.

Section 7: Seeks funds from Nebraska Education Improvement Fund.

Section 8: Currently Statute dictates that Administrative and teaching personnel may take actions regarding student behavior, other than those specifically provided in the Student Discipline Act, which are reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process.

This bill adds "and the Education Behavioral Awareness and Support Act" to indicate that the Act shall not limit actions taken by administrative and teaching personnel in regards to student behavior.

Section 9: Adds collecting behavioral awareness and intervention training plans and certifying compliance or noncompliance to the duties of the state school security director.

Section 10: Harmonizes provision pursuant to this Act.

Section 11: Outlines the formula by which such funding is calculated. All school districts shall receive a base training reimbursement of two-thousand (2,000) dollars for each school in their district. Furthermore, within school districts, specific schools with a full-time teacher equivalent (FTE) greater than or equal to eighty (80) will receive additional training reimbursement for each school. The Department of Education will calculate "additional training reimbursement units" for each school as follows: 80-159 FTE = 1 additional reimbursement unit; 160-239 FTE = 2 units; greater than or equal to 240 FTE = 3 units. The value per unit is determined annually by dividing the balance of funding available after the calculated \$2000 per school by the total number of statewide additional reimbursement units, but it shall not exceed \$2000 per unit. (i.e. in effect, each block of 80 teachers will be counted as an additional school)

The first year (2020-21), all schools will qualify for the funding, without certification, to compensate for timing. Subsequently, however, school districts must send their training plan to the State School Security Director to evaluate and certify compliance in order to receive funds.

The Department of Education shall be considered special grant funds and shall not be included in the calculation of formulas resources pursuant to section 79-1017.01

Section 12: Changes the date for which the Department of Education shall certify TEEOSA in 2021

Sections 13 & 14: Harmonizes provisions therein.

Section 15: Repeals original sections

Section 16: Establishes an Emergency Clause

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Lynne Walz, Chairperson