

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 939

Introduced by Erdman, 47; Halloran, 33; Lowe, 37.

Read first time January 04, 2024

Committee: Education

- 1 A BILL FOR AN ACT relating to school funding; to adopt the My Student, My
- 2 Choice Act; and to provide an operative date.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 12 of this act shall be known and may be
2 cited as the My Student, My Choice Act.

3 Sec. 2. Because parents and legal guardians have the right to
4 educate their children in an environment that reflects their own values,
5 the State of Nebraska shall provide for the education of students
6 attending kindergarten through twelfth grade who are legal residents of
7 this state in a way which protects that right, provided that such
8 students are enrolled in a public or private school in the state.

9 Sec. 3. For purposes of the My Student, My Choice Act:

10 (1) Adjusted average per pupil cost of the preceding year has the
11 same meaning as in section 79-1114;

12 (2) Educational vendor means a seller of educational products or
13 services;

14 (3) Enrolled student means a student enrolled in either a private
15 school or public school;

16 (4) Private school means a private, denominational, or parochial
17 elementary or secondary school in this state;

18 (5) Public school means any public elementary or secondary school in
19 this state; and

20 (6) Special education means pedagogical methods beyond the normal or
21 usual pedagogical methods which are designed to facilitate learning for
22 individuals who require additional support or adaptive pedagogical
23 methods in order to participate in school activities or meet grade-level
24 learning objectives.

25 Sec. 4. (1) No later than May 15 of each calendar year, the State
26 Department of Education shall provide the Governor, the chairperson of
27 the Appropriations Committee of the Legislature, the State Treasurer, and
28 each school board with:

29 (a) The adjusted average per pupil cost of the preceding year;

30 (b) The total number of enrolled students in public schools for the
31 previous year and the projected number of enrolled students in public

1 schools for the next school year; and

2 (c) The total number of enrolled students in private schools for the
3 previous year and the projected number of enrolled students in private
4 schools for the next year.

5 (2) The State Department of Education shall post the information
6 described in subsection (1) of this section on the department's website
7 no later than May 15 of each calendar year.

8 Sec. 5. (1) There is hereby created the Follow the Student Fund.
9 The fund shall be administered by the State Treasurer, except that the
10 State Treasurer shall have the authority and the option to hire a third-
11 party manager or agency to run any programs associated with administering
12 the fund. Any money in the fund available for investment shall be
13 invested by the state investment officer pursuant to the Nebraska Capital
14 Expansion Act and the Nebraska State Funds Investment Act.

15 (2) Each year the State Treasurer shall use the information provided
16 pursuant to section 4 of this act to transfer an amount equal to one
17 hundred percent of the adjusted average per pupil cost of the preceding
18 year plus two percent multiplied by the total number of enrolled students
19 in public schools in the preceding year from the General Fund to the
20 Follow the Student Fund. The State Treasurer shall then use the
21 information provided pursuant to section 4 of this act to transfer an
22 amount equal to fifty percent of the adjusted average per pupil cost of
23 enrolled students in public schools multiplied by the number of projected
24 enrolled students in private schools from the General Fund to the Follow
25 the Student Fund.

26 (3)(a) The State Treasurer or a third-party manager or agency under
27 the supervision of the State Treasurer shall establish a separate student
28 account for each enrolled student in the State of Nebraska as provided in
29 section 6 of this act. Each year the State Treasurer shall distribute:

30 (i) An amount equal to one hundred percent of the adjusted average
31 per pupil cost plus two percent into the account of each student enrolled

1 full-time in a public school;

2 (ii) An amount equal to fifty percent of the adjusted average per
3 pupil cost plus two percent into the account of each student enrolled
4 part-time in a public secondary school;

5 (iii) An amount equal to fifty percent of the adjusted average per
6 pupil cost into the account of each student enrolled full-time in a
7 private school; and

8 (iv) An amount equal to twenty-five percent of the adjusted average
9 per pupil cost into the account of each student enrolled part-time in a
10 private secondary school.

11 (b) A student shall be considered part-time whenever the student is
12 enrolled in three or fewer courses at a public or private high school.

13 (c) Such student accounts shall be made available for viewing by the
14 enrolled student's parent or legal guardian, or by the enrolled student
15 if he or she is nineteen years of age or older or an emancipated minor.

16 Sec. 6. (1) The parent or legal guardian of an enrolled student, or
17 the enrolled student if he or she is nineteen years of age or older or an
18 emancipated minor, must apply for a student account with the State
19 Treasurer before any money may be distributed into such account. The
20 State Treasurer shall make an application available on the State
21 Treasurer's website and in paper form at each public school and at select
22 public libraries.

23 (2) Applications shall be made available on the State Treasurer's
24 website and in paper form at each public school and at select public
25 libraries by June 1 of each calendar year for the fall semester and
26 November 1 of each calendar year for the spring semester. Applications
27 must be submitted by July 1 in order to begin receiving money for the
28 fall semester and by December 1 in order to begin receiving money for the
29 spring semester. The State Treasurer may grant an extension upon request,
30 but no extension shall extend beyond August 1 for the fall semester and
31 February 1 for the spring semester.

1 (3) Each year after initially receiving an enrolled student account
2 pursuant to the My Student, My Choice Act, a parent or legal guardian of
3 an enrolled student or an enrolled student who is nineteen years of age
4 or older or an emancipated minor with an enrolled student account
5 pursuant to the act shall indicate the intent for the student's continued
6 participation in a manner prescribed by the State Treasurer.

7 (4) An enrolled student transferring mid-semester to another school
8 within this state shall notify the State Treasurer within five calendar
9 days after enrolling in such new school. Failure to notify the State
10 Treasurer of the school transfer may result in suspension or expulsion
11 from the school. The State Treasurer shall begin transferring monthly
12 payments from any such enrolled student's account to the student's new
13 school within thirty days after receiving notice of the transfer.

14 (5) A student transferring mid-semester to a school in Nebraska from
15 outside this state or from another country shall submit an application
16 for an enrolled student account to the State Treasurer within ten days
17 after enrolling in school in this state. Failure to submit an application
18 for an enrolled student account may result in suspension or expulsion
19 from school. The State Treasurer shall approve or deny a newly enrolled
20 student's account and begin transferring monthly payments from any such
21 newly approved student's account within thirty days after receiving the
22 application. Any student who has been denied an enrolled student account
23 by the State Treasurer may file an appeal with the State Treasurer or
24 reapply fifteen days following the date of the original application.

25 (6) Participation in the My Student, My Choice Act shall be
26 considered voluntary for students enrolled in private school.
27 Participation in the act shall be considered mandatory for students
28 enrolled in public school.

29 (7) A parent or legal guardian of an enrolled student or an enrolled
30 student who is nineteen years of age or older or an emancipated minor
31 applying for an enrolled student account pursuant to the My Student, My

1 Choice Act shall sign, submit, and enter into a legal contract provided
2 by the State Treasurer. The contract shall specify that any money
3 transferred into the enrolled student's account shall be used exclusively
4 for educational purposes as specified in section 7 of this act, shall not
5 be transferred to another student, and shall be used in compliance with
6 the terms of the My Student, My Choice Act.

7 Sec. 7. (1) Any money from an enrolled student's account shall only
8 be used to pay for tuition, school fees, textbooks, a tutor, a proctor, a
9 private teacher, curriculum, an online learning program, a national norm-
10 referenced examination, an advanced placement examination, an examination
11 required for college admission, educational services for students with
12 disabilities, tuition for courses offered for high school credit through
13 colleges or universities, tuition for courses offered for credit at an
14 accredited college or university, educational computer software,
15 educational software subscriptions, a personal computer or tablet, a
16 calculator, a school uniform, or other supplemental education or teaching
17 resources.

18 (2) The money in a student account is nontransferable and shall be
19 used exclusively to pay for the educational expenses of the enrolled
20 student to whom the account belongs.

21 (3) The State Treasurer, upon request by the parent or legal
22 guardian or an enrolled student or an enrolled student who is nineteen
23 years of age or older or an emancipated minor, shall issue a smart card
24 for withdrawing funds from the student's account. The smart card shall be
25 restricted to use at preapproved educational vendors.

26 (4) The State Department of Education shall approve all educational
27 vendors and all educational materials for purchases made by all students
28 enrolled in a public school. Any student enrolled full-time in a public
29 school shall remit such student's full tuition from such student's
30 enrolled student account to the public school where the student is
31 enrolled.

1 (5)(a) There is hereby created the Private School Expenditure Board.
2 The board shall consist of one person representing a private Catholic or
3 parochial school, one person representing a private Protestant Christian
4 or nondenominational school, one person representing a private secular or
5 a private nonsectarian school, one person representing a school with
6 fifty or fewer enrolled students, and one person associated with a school
7 with ten or fewer enrolled students. The Commissioner of Education or the
8 commissioner's designee shall serve as an ex officio, nonvoting member.
9 The members of the board shall receive remuneration for serving on the
10 board in the amount of ten thousand dollars per year.

11 (b) The Governor shall appoint the members of the board during the
12 month of August in each odd-numbered year. The members shall serve for
13 two years and until their successor is appointed and qualified. The board
14 shall elect a chairperson and vice-chairperson from among its members.
15 The board shall abide by the Open Meetings Act and shall follow Robert's
16 Rules of Order.

17 (6) No later than December 15 of each odd-numbered year, the board
18 shall approve educational vendors that an enrolled private school student
19 or their parent or legal guardian may purchase educational products or
20 services at using the smart card described in subsection (3) of this
21 section and shall prepare a report of such vendors for the Commissioner
22 of Education. The commissioner may advise the board but shall have no
23 authority to edit the report. No later than January 15 of each even-
24 numbered year, the Commissioner of Education shall submit the report to
25 the State Treasurer. The report of approved educational vendors shall be
26 used for the following two school years. The State Treasurer shall use
27 the report to administer and monitor the use of the smart cards described
28 in subsection (3) of this section. Nothing in this section shall preclude
29 a private school from using its own funds to purchase educational
30 materials from an education vendor not listed in the report as an
31 approved educational vendor. The State Treasurer shall be limited to

1 recognizing only those purchases made through approved educational
2 vendors listed in the most recent report.

3 (7) The Private School Expenditure Board shall create and maintain a
4 website. No later than January 31 of each even-numbered calendar year,
5 the website shall be updated to include the following information:

6 (a) Biographical information about each board member;

7 (b) The report of approved educational vendors; and

8 (c) An online application or portal for filing an educational vendor
9 appeal.

10 (8) A superintendent or principal representing a private school may
11 file an appeal for an educational vendor that was not on the report as an
12 approved educational vendor after the report has been posted to the
13 board's website. No superintendent or principal of a private school may
14 file more than five appeals per year. Upon a successful majority vote of
15 the board, the report may be amended to include the additional
16 educational vendor or vendors. An educational vendor which has been
17 amended into the report shall be listed or posted on the board's website
18 no later than ten days following the successful vote. The board shall
19 notify the superintendent or principal filing the appeal in writing
20 concerning the outcome of the appeal no later than five days following
21 the vote or a decision to dismiss the appeal. Whenever an appeal has been
22 dismissed, the reasons for the dismissal shall be stated in writing and
23 included in the notification to the superintendent or principal. The
24 Commissioner of Education shall notify the State Treasurer concerning any
25 amendments to the report on educational vendors no later than five days
26 after the board's successful vote to amend the report.

27 Sec. 8. The State Treasurer shall deposit money into student
28 accounts at the beginning of each semester. The parent or legal guardian
29 of an enrolled student or an enrolled student who is nineteen years of
30 age or older or an emancipated minor shall designate monies deposited
31 into the enrolled student's account to be used for tuition payments to

1 the school or schools where the student is enrolled and shall instruct
2 the State Treasurer, in a manner prescribed by the State Treasurer, to
3 distribute such monies to any school or schools on a monthly basis. Any
4 money designated for tuition payments shall be distributed to the
5 enrolled student's school or schools on a monthly basis as prescribed by
6 the State Treasurer. Any excess funds in an enrolled student's account
7 may be used in accordance with section 7 of this act. Unused funds which
8 remain in a student account on August 1 of any year shall be transferred
9 to the Cash Reserve Fund.

10 Sec. 9. The State of Nebraska shall not withhold any money from a
11 private school or in any way penalize a private school on the basis that
12 such school refuses to change its curriculum, its statement of faith, or
13 its policies in order to comply with state standards. The State Treasurer
14 shall recognize any private school registered within the State of
15 Nebraska as a valid recipient for monthly tuition payments from the
16 Follow the Student Fund. No private school shall be obligated to receive
17 money from the Follow the Student Fund.

18 Sec. 10. (1) In order to prevent fraud and theft from student
19 accounts, the State Treasurer shall monitor student accounts, investigate
20 suspicious activity, and conduct random audits of student accounts.
21 Whenever the State Treasurer determines that money from a student account
22 has been used for noneducational purposes, the State Treasurer shall
23 conduct an interview with the parent or guardian of the enrolled student,
24 or with the enrolled student if he or she is nineteen years of age or
25 older or an emancipated minor, and with any other person suspected of
26 committing an act of fraud or theft.

27 (2) If the State Treasurer determines that an act of fraud or theft
28 has been committed, the offense shall be reported to the Nebraska State
29 Patrol for investigation. If the Nebraska State Patrol determines that a
30 crime has been committed, the offender shall be charged with the
31 appropriate offense under Nebraska law. In addition, the offender shall

1 be required to pay restitution for the amount taken, and such money shall
2 be deposited into the student account from which it was taken.

3 Sec. 11. It is the intent of the Legislature that each fiscal year
4 the Legislature shall transfer money from the General Fund to the Follow
5 the Student Fund in a manner sufficient to cover the adjusted average per
6 pupil cost plus two percent for the projected number of enrolled public
7 school students statewide plus fifty percent of the adjusted average per
8 pupil cost for the projected number of enrolled private school students
9 statewide.

10 Sec. 12. (1) Each public school district shall have the authority
11 to levy a tax on real property sufficient to cover the special education
12 needs of the school district.

13 (2) If a school district intends to increase the tax levy by more
14 than two percent under the My Student, My Choice Act, the school district
15 shall hold a public hearing with members of the public invited to testify
16 and such hearing shall take place no later than thirty days prior to
17 approval of the school district's budget. The hearing shall not take
18 place prior to the seventh hour of the day and the hearing shall start no
19 later than the nineteenth hour of the day. No hearing pursuant to this
20 section shall ever extend into the following day, except by unanimous
21 consent of the elected members of the school board.

22 (3) A school district shall not use revenue generated from taxes on
23 real property pursuant to this section for any purposes other than for
24 special education needs.

25 Sec. 13. This act becomes operative on June 30, 2026.