

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 239**

Introduced by Haar, 21.

Read first time January 14, 2015

Committee:

1 A BILL FOR AN ACT relating to education; to amend sections 79-308,  
2 79-309.01, 79-761, 79-1028.01, and 79-1035, Reissue Revised Statutes  
3 of Nebraska; to provide for a Coordinator for Educator Effectiveness  
4 and educator evaluation models as prescribed; to provide for grants  
5 and funding; to harmonize provisions; and to repeal the original  
6 sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-308, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 79-308 (1) The Commissioner of Education shall organize institutes  
4 and conferences at such times and places as he or she deems practicable.  
5 He or she shall, as far as practicable, attend such institutes and  
6 conferences, provide proper instructors for the same, and in other ways  
7 seek to improve the efficiency of teachers and advance the cause of  
8 education in the state.

9 (2) The Legislature finds that (a) an educator effectiveness system  
10 includes a quality evaluation system with the primary goal of improving  
11 instruction and learning in every school district and (b) school  
12 districts have an opportunity to receive training on the quality  
13 evaluation models.

14 (3) The commissioner shall appoint a Coordinator for Educator  
15 Effectiveness to support the development and implementation of a systemic  
16 effective educator system. The responsibilities of the coordinator shall  
17 include, but not be limited to, working in partnership with Nebraska  
18 school systems, educational service units, postsecondary educational  
19 institutions, and other education stakeholders to develop and make  
20 available on a statewide basis evaluation models for effective educators,  
21 provide training to implement the models, and facilitate the collection  
22 of data to determine the effectiveness of the models.

23 (4) Beginning with the 2016-17 school year, school districts may  
24 apply to the State Department of Education for grant funding for a period  
25 of up to two years to implement an evaluation model for effective  
26 educators described in subsection (3) of this section and to obtain the  
27 necessary training for administrators and teachers for such model.  
28 Funding for grant funds shall be three million five hundred thousand  
29 dollars.

30 (5) The State Board of Education may adopt and promulgate rules and  
31 regulations to carry out this section.

1           Sec. 2. Section 79-309.01, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           79-309.01 ~~(1)(a) Beginning in 2016, the Commissioner of Education~~  
4 ~~shall annually collect data from each school district prior to February~~  
5 ~~25 and determine whether at least seventy-five percent of the school~~  
6 ~~districts have included a system for distributing apportionment funds~~  
7 ~~attributable to income from solar or wind agreements on school lands for~~  
8 ~~teacher performance pay within such districts' local collective-~~  
9 ~~bargaining agreements for the ensuing school fiscal year.~~

10           The (b)(i) If the seventy-five percent requirement has been met for  
11 the year, the Commissioner of Education shall use the separate accounting  
12 provided by the State Treasurer under subdivision (1)(b) of section  
13 79-1035 to determine the amount of the apportionment to each school  
14 district under section 79-1035 that is attributable to income from solar  
15 or wind agreements on school lands. This amount shall provide funds for  
16 the grants described in section 79-308 ~~The commissioner shall notify each~~  
17 ~~school district of such amount within five days after certification of~~  
18 ~~the apportionment required pursuant to subsection (3) of section 79-1035.~~  
19 ~~Each school district shall use the amount of apportionment funds~~  
20 ~~specified in the notice provided by the commissioner for the purpose of~~  
21 ~~teacher performance pay. Such amount shall be used as a supplement to the~~  
22 ~~salary schedule as provided in local collective-bargaining agreements.~~  
23 ~~For purposes of distribution of such funds only, the Legislature finds~~  
24 ~~that teacher performance pay measurements, criteria, and payout amounts~~  
25 ~~are mandatory topics of collective bargaining. If a school district has~~  
26 ~~not included a system for distributing apportionment funds attributable~~  
27 ~~to income from solar or wind agreements on school lands for teacher~~  
28 ~~performance pay within its local collective-bargaining agreement, the~~  
29 ~~amount of apportionment funds specified in the notice provided by the~~  
30 ~~commissioner shall be returned to the State Treasurer within one month of~~  
31 ~~receipt of such funds. The State Treasurer shall immediately credit any~~

1 ~~funds returned under this section to the temporary school fund. Any funds~~  
2 ~~returned under this section shall be redistributed from the temporary~~  
3 ~~school fund in the following year and shall no longer be designated as~~  
4 ~~income attributable to solar or wind agreements on school lands.~~

5 ~~(ii) If the seventy five percent requirement has not been met for~~  
6 ~~the year, then subdivision (1)(b)(i) of this section shall not apply for~~  
7 ~~that year.~~

8 ~~(2) If the seventy five percent requirement has not been met in~~  
9 ~~2016, 2017, or 2018, then this section shall not apply in 2019 or any~~  
10 ~~year thereafter.~~

11 ~~(3) For purposes of this section, agreement ÷~~

12 ~~(a) Agreement means any lease, easement, covenant, or other such~~  
13 ~~contractual arrangement. ÷ and~~

14 ~~(b) Teacher performance pay means a systematic process for measuring~~  
15 ~~teachers' performance and linking the measurements to changes in teacher~~  
16 ~~pay. Indicators of teacher performance may include improving professional~~  
17 ~~skills and knowledge, classroom performance or instructional behavior,~~  
18 ~~and instructional outcomes. Teacher performance pay may include~~  
19 ~~predetermined bonus amounts and payout criteria.~~

20 Sec. 3. Section 79-761, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 79-761 The State Board of Education shall develop guidelines for  
23 mentor teacher programs in local systems in order to provide ongoing  
24 support for individuals entering the teaching profession. Mentor teachers  
25 shall not participate in the formal evaluation of beginning teachers  
26 which shall be the responsibility of school administrators. Local systems  
27 The mentor teacher programs shall identify criteria for selecting  
28 excellent, experienced, and qualified teachers to be participants in the  
29 local system mentor teacher program which are consistent with the  
30 guidelines developed by the State Board of Education.

31 Sec. 4. Section 79-1028.01, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 79-1028.01 (1) For each school fiscal year, a school district may  
3 exceed its budget authority for the general fund budget of expenditures  
4 as calculated pursuant to section 79-1023 for such school fiscal year by  
5 a specific dollar amount for the following exclusions:

6 (a) Expenditures for repairs to infrastructure damaged by a natural  
7 disaster which is declared a disaster emergency pursuant to the Emergency  
8 Management Act;

9 (b) Expenditures for judgments, except judgments or orders from the  
10 Commission of Industrial Relations, obtained against a school district  
11 which require or obligate a school district to pay such judgment, to the  
12 extent such judgment is not paid by liability insurance coverage of a  
13 school district;

14 (c) Expenditures pursuant to the Retirement Incentive Plan  
15 authorized in section 79-855 or the Staff Development Assistance  
16 authorized in section 79-856;

17 (d) Expenditures of amounts received from educational entities as  
18 defined in section 79-1201.01 for providing distance education courses  
19 through the Educational Service Unit Coordinating Council to such  
20 educational entities;

21 (e) Expenditures to pay for employer contributions pursuant to  
22 subsection (2) of section 79-958 to the School Employees Retirement  
23 System of the State of Nebraska to the extent that such expenditures  
24 exceed the employer contributions under such subsection that would have  
25 been made at a contribution rate of seven and thirty-five hundredths  
26 percent;

27 (f) Expenditures to pay for school district contributions pursuant  
28 to subdivision (1)(c)(i) of section 79-9,113 to the retirement system  
29 established pursuant to the Class V School Employees Retirement Act to  
30 the extent that such expenditures exceed the school district  
31 contributions under such subdivision that would have been made at a

1 contribution rate of seven and thirty-seven hundredths percent;

2 (g) Expenditures for sums agreed to be paid by a school district to  
3 certificated employees in exchange for a voluntary termination occurring  
4 prior to July 1, 2009, occurring on or after the last day of the 2010-11  
5 school year and prior to the first day of the 2013-14 school year, or, to  
6 the extent that a district demonstrates to the State Board of Education  
7 pursuant to subsection (3) of this section that the agreement will result  
8 in a net savings in salary and benefit costs to the school district over  
9 a five-year period, occurring on or after the first day of the 2013-14  
10 school year;

11 ~~(h) Any expenditures in school fiscal years 2016-17 and 2017-18 of~~  
12 ~~amounts specified in the notice provided by the Commissioner of Education~~  
13 ~~pursuant to section 79-309.01 for teacher performance pay;~~

14 (h i) The special education budget of expenditures; and

15 (i j) Expenditures of special grant funds.

16 (2) For each school fiscal year, a school district may exceed its  
17 budget authority for the general fund budget of expenditures as  
18 calculated pursuant to section 79-1023 for such school fiscal year by a  
19 specific dollar amount and include such dollar amount in the budget of  
20 expenditures used to calculate budget authority for the general fund  
21 budget of expenditures pursuant to section 79-1023 for future years for  
22 the following exclusions:

23 (a) Expenditures of support grants to be received in such school  
24 fiscal year pursuant to section 79-1011;

25 (b) The first school fiscal year the district will be participating  
26 in Network Nebraska for the full school fiscal year, for the difference  
27 of the estimated expenditures for such school fiscal year for  
28 telecommunications services, access to data transmission networks that  
29 transmit data to and from the school district, and the transmission of  
30 data on such networks as such expenditures are defined by the department  
31 for purposes of the distance education and telecommunications allowance

1 minus the dollar amount of such expenditures for the second school fiscal  
2 year preceding the first full school fiscal year the district  
3 participates in Network Nebraska;

4 (c) Expenditures for new elementary attendance sites in the first  
5 year of operation or the first year of operation after being closed for  
6 at least one school year if such elementary attendance site will most  
7 likely qualify for the elementary site allowance in the immediately  
8 following school fiscal year as determined by the state board;

9 (d) For the first school fiscal year for which early childhood  
10 education membership is included in formula students for the calculation  
11 of state aid, expenditures for early childhood education equal to the  
12 amount the school district received in early childhood education grants  
13 pursuant to section 79-1103 for the prior school fiscal year, increased  
14 by the basic allowable growth rate; and

15 (e) For school fiscal year 2013-14, an amount not to exceed two  
16 percent over the previous school year if such increase is approved by a  
17 seventy-five percent majority vote of the school board of such district.

18 (3) The state board shall approve, deny, or modify the amount  
19 allowed for any exclusions to the budget authority for the general fund  
20 budget of expenditures pursuant to this section.

21 Sec. 5. Section 79-1035, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 79-1035 (1)(a) The State Treasurer shall, each year on or before the  
24 third Monday in January, make a complete exhibit of all money belonging  
25 to the permanent school fund and the temporary school fund as returned to  
26 him or her from the several counties, together with the amount derived  
27 from other sources, and deliver such exhibit duly certified to the  
28 Commissioner of Education.

29 (b) Beginning in 2016 and each year thereafter, the exhibit required  
30 in subdivision (1)(a) of this section shall include a separate  
31 accounting, not to exceed an amount of ten million dollars, of the income

1 from solar and wind agreements on school lands. The amount of income from  
2 solar and wind agreements on school lands shall be used to fund the  
3 grants described in section 79-308. The Board of Educational Lands and  
4 Funds shall provide the State Treasurer with the information necessary to  
5 make the exhibit required by this subsection. Separate accounting shall  
6 not be made for income from solar or wind agreements on school lands that  
7 exceeds the sum of ten million dollars.

8 (2) On or before February 25 following receipt of the exhibit from  
9 the State Treasurer pursuant to subsection (1) of this section, the  
10 Commissioner of Education shall make the apportionment of the temporary  
11 school fund to each school district as follows: From the whole amount,  
12 less the amount of income from solar and wind agreements on school lands,  
13 there shall be paid to those districts in which there are school or  
14 saline lands, which lands are used for a public purpose, an amount in  
15 lieu of tax money that would be raised if such lands were taxable, to be  
16 fixed in the manner prescribed in section 79-1036; and the remainder  
17 shall be apportioned to the districts according to the pro rata  
18 enumeration of children who are five through eighteen years of age in  
19 each district last returned from the school district. The calculation of  
20 apportionment for each school fiscal year shall include any corrections  
21 to the prior school fiscal year's apportionment.

22 (3) The Commissioner of Education shall certify the amount of the  
23 apportionment of the temporary school fund as provided in subsection (2)  
24 of this section to the Director of Administrative Services. The Director  
25 of Administrative Services shall draw a warrant on the State Treasurer in  
26 favor of the various districts for the respective amounts so certified by  
27 the Commissioner of Education.

28 (4) For purposes of this section, agreement means any lease,  
29 easement, covenant, or other such contractual arrangement.

30 Sec. 6. Original sections 79-308, 79-309.01, 79-761, 79-1028.01,  
31 and 79-1035, Reissue Revised Statutes of Nebraska, are repealed.