

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1273**

Introduced by Murman, 38.

Read first time January 16, 2024

Committee: Education

- 1 A BILL FOR AN ACT relating to education; to amend section 79-215, Revised
- 2 Statutes Cumulative Supplement, 2022, and section 79-2,136, Revised
- 3 Statutes Supplement, 2023; to change provisions relating to the
- 4 admission of students and require each school board to allow certain
- 5 students that are not residents of the school district to
- 6 participate in extracurricular activities as prescribed; and to
- 7 repeal the original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-215, Revised Statutes Cumulative Supplement,  
2 2022, 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.

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

31 (9) When a student as a ward of the state or as a ward of any court

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

24 (10)(a) When a student is not a ward of the state or a ward of any  
25 court and is residing in a residential setting located in Nebraska for  
26 reasons other than to receive an education and the residential setting is  
27 operated by a service provider which is certified or licensed by the  
28 Department of Health and Human Services or is enrolled in the medical  
29 assistance program established pursuant to the Medical Assistance Act and  
30 Title XIX or XXI of the federal Social Security Act, as amended, the  
31 student shall remain a resident of the district in which he or she

1 resided immediately prior to residing in such residential setting. The  
2 resident district for a student who is not a ward of the state or a ward  
3 of any court does not change when the student moves from one residential  
4 setting to another.

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

28 (c) If a student is residing in a residential setting as described  
29 in subdivision (10)(a) of this section and such residential setting  
30 maintains an interim-program school as defined in section 79-1119.01 or  
31 an approved or accredited school, the department shall reimburse such

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

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

21 (e) A student residing in a residential setting described in this  
22 subsection shall be defined as a student with a handicap pursuant to  
23 Article VII, section 11, of the Constitution of Nebraska, and as such the  
24 state and any political subdivision may contract with institutions not  
25 wholly owned or controlled by the state or any political subdivision to  
26 provide the educational services to the student if such educational  
27 services are nonsectarian in nature.

28 (11) A school board shall admit a student who is also enrolled in a  
29 private, denominational, or parochial school or in a school which elects  
30 pursuant to section 79-1601 not to meet accreditation or approval  
31 requirements without charge for part-time enrollment in the school

1 district for purposes of participation in extracurricular activities in  
2 accordance with section 79-2,136 if such student or at least one parent  
3 of such student resides in a neighboring school district and the school  
4 district where such student or such student's parent resides does not  
5 offer the extracurricular activity the student desires to participate in  
6 through part-time enrollment.

7       (12) ~~(11)~~ In the case of any individual eighteen years of age or  
8 younger who is a ward of the state or any court and who is placed in a  
9 county detention home established under section 43-2,110, the cost of his  
10 or her education shall be paid by the state, regardless of the district  
11 in which he or she resided at the time he or she became a ward, to the  
12 agency or institution which: (a) Is selected by the county board with  
13 jurisdiction over such detention home; (b) has agreed or contracted with  
14 such county board to provide educational services; and (c) has been  
15 approved by the State Department of Education pursuant to rules and  
16 regulations prescribed by the State Board of Education.

17       (13) ~~(12)~~ No tuition shall be charged for students who may be by law  
18 allowed to attend the school without charge.

19       (14) ~~(13)~~ The State Department of Education shall establish  
20 procedures and criteria for collecting enrollment, admission, and related  
21 information needed for any student to attend a school district in this  
22 state which shall include, but not be limited to, having an adult with  
23 legal or actual charge or control of a student provide through electronic  
24 means or other means specified by the department the name of the student,  
25 the name of the adult with legal or actual charge or control of the  
26 student, the address where the student is or will be residing, and  
27 information on how and where the adult may generally be reached during  
28 the school day.

29       (15) ~~(14)~~ The department may adopt and promulgate rules and  
30 regulations to carry out the provisions of this section.

31       Sec. 2. Section 79-2,136, Revised Statutes Supplement, 2023, is

1 amended to read:

2 79-2,136 (1) Each school board shall allow the part-time enrollment  
3 of students, for all courses selected by the students, who are residents  
4 of or admitted to the school district pursuant to subsection ~~subsections~~  
5 (1), ~~and~~ (2), or (11) of section 79-215 and who are also enrolled in a  
6 private, denominational, or parochial school or in a school which elects  
7 pursuant to section 79-1601 not to meet accreditation or approval  
8 requirements and shall establish policies and procedures for such part-  
9 time enrollment. Such policies and procedures may include provisions  
10 permitting the part-time enrollment of such students who are not  
11 residents of or admitted to such school districts to the extent permitted  
12 pursuant to section 79-215 and may require part-time students to follow  
13 school policies that apply to other students at any time the part-time  
14 student is present on school grounds or at a school-sponsored activity or  
15 athletic event. Part-time enrollment shall not entitle a student to  
16 transportation or transportation reimbursements pursuant to section  
17 79-611.

18 (2) Each school board shall establish policies and procedures to  
19 allow any student who is a resident of or admitted to the school district  
20 pursuant to subsection (1), ~~or~~ (2), or (11) of section 79-215 and who is  
21 enrolled in a school which elects pursuant to section 79-1601 not to meet  
22 accreditation or approval requirements to participate in any  
23 extracurricular activities as defined in section 79-2,126, including, but  
24 not limited to, interschool competitions, to the same extent and subject  
25 to the same requirements, conditions, and procedures as a student  
26 enrolled in a public school governed by such board, except that any  
27 school which elects pursuant to section 79-1601 not to meet accreditation  
28 or approval requirements shall set the standards for satisfactory  
29 academic performance for a student from the school to participate in  
30 extracurricular activities pursuant to this subsection and shall provide  
31 assurances of compliance with such academic standards.

1           (3) School board policies and procedures adopted pursuant to  
2 subsection (2) of this section (a) shall require any student  
3 participating in extracurricular activities pursuant to such subsection  
4 to be enrolled in no more and no less than five credit hours offered by  
5 the school district in any semester, (b) shall not allow any preference  
6 in the selection of a student for participation in an extracurricular  
7 activity based on such student's status as a full-time student in the  
8 school district, and (c) may require any student participating in  
9 extracurricular activities pursuant to such subsection to follow school  
10 policies that apply to other students when present on school grounds or  
11 at a school-sponsored activity or athletic event. Participation in  
12 extracurricular activities pursuant to subsection (2) of this section  
13 shall not entitle a student to transportation, except to and from  
14 practices and events to the same extent as public school students  
15 participating in such activities, or transportation reimbursement  
16 pursuant to section 79-611.

17           (4) Nothing in this section shall be construed to exempt any student  
18 from the compulsory attendance provisions of sections 79-201 to 79-210.

19           Sec. 3. Original section 79-215, Revised Statutes Cumulative  
20 Supplement, 2022, and section 79-2,136, Revised Statutes Supplement,  
21 2023, are repealed.