

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 987**

Introduced by Linehan, 39.

Read first time January 05, 2024

Committee: Education

1 A BILL FOR AN ACT relating to the Quality Education Accountability Act;  
2 to amend sections 79-760.03, 79-760.05, and 79-2603, Revised  
3 Statutes Cumulative Supplement, 2022; to require each public school  
4 and each approved or accredited private, denominational, or  
5 parochial school to administer an age-appropriate national  
6 assessment instrument to students in kindergarten through twelfth  
7 grade each school year; to require such schools to submit testing  
8 data to the State Department of Education; to provide and change  
9 powers and duties of the State Board of Education and the State  
10 Department of Education; to harmonize provisions; and to repeal the  
11 original sections.  
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-760.03, Revised Statutes Cumulative  
2 Supplement, 2022, is amended to read:

3 79-760.03 (1) For school year 2009-10 and each school year  
4 thereafter, the State Board of Education shall implement a statewide  
5 system for the assessment of student learning and for reporting the  
6 performance of school districts and learning communities pursuant to this  
7 section. The assessment and reporting system shall measure student  
8 knowledge of subject matter materials covered by measurable academic  
9 content standards selected by the state board.

10 (2) The state board shall adopt a plan for an assessment and  
11 reporting system and implement and maintain the assessment and reporting  
12 system according to such plan. The plan shall be submitted annually to  
13 the State Department of Education, the Governor, the chairperson of the  
14 Education Committee of the Legislature, and the Clerk of the Legislature.  
15 The plan submitted to the committee and the Clerk of the Legislature  
16 shall be submitted electronically. The state board shall select grade  
17 levels for assessment and reporting required pursuant to subsections (4)  
18 through (7) of this section. The purposes of the system are to:

19 (a) Determine how well public schools are performing in terms of  
20 achievement of public school students related to the state academic  
21 content standards;

22 (b) Report the performance of public schools based upon the results  
23 of state assessment instruments and national assessment instruments;

24 (c) Provide information for the public and policymakers on the  
25 performance of public schools; and

26 (d) Provide for the comparison among Nebraska public schools and the  
27 comparison of Nebraska public schools to public schools elsewhere.

28 (3) The Governor shall appoint a technical advisory committee to  
29 review (a) the statewide assessment plan, (b) state and national  
30 assessment instruments, and (c) the accountability system developed under  
31 the Quality Education Accountability Act. The technical advisory

1 committee shall consist of three nationally recognized experts in  
2 educational assessment and measurement, one administrator from a school  
3 in Nebraska, and one teacher from a school in Nebraska. The members shall  
4 serve terms of three years, except that two of the members shall be  
5 appointed for initial terms of two years. Any vacancy shall be filled by  
6 the Governor for the remainder of the term. One of the members shall be  
7 designated as chairperson by the Governor. Members shall be reimbursed  
8 for expenses as provided in sections 81-1174 to 81-1177. The committee  
9 shall advise the Governor, the state board, and the State Department of  
10 Education on the development or selection of statewide or national  
11 assessment instruments and the statewide assessment plan. The  
12 appointments to the committee shall be confirmed by the Legislature.

13 (4) Through school year 2016-17, the state board shall prescribe a  
14 statewide assessment of writing that relies on writing samples in each of  
15 three grades selected by the state board. Each year at least one of the  
16 three selected grades shall participate in the statewide writing  
17 assessment with each selected grade level participating at least once  
18 every three years.

19 (5) Through ~~For school year 2009-10 and for each school year 2024-25~~  
20 ~~thereafter~~, the state board shall prescribe a statewide assessment of  
21 reading. The statewide assessment of reading shall include assessment  
22 instruments for each of the grade levels three through eight and for one  
23 grade in high school and standards adopted by the state board pursuant to  
24 section 79-760.01. ~~The For school year 2017-18 and each school year~~  
25 ~~thereafter~~, the statewide assessment of reading shall include a component  
26 of writing as determined by the state board.

27 (6) Through school year 2024-25 ~~For no later than school year~~  
28 ~~2010-11 and for each school year thereafter~~, the state board shall  
29 prescribe a statewide assessment of mathematics. The statewide assessment  
30 of mathematics shall include assessment instruments for each of the grade  
31 levels three through eight and for one grade in high school and standards

1 adopted by the state board pursuant to section 79-760.01.

2 (7) ~~Through school year 2024-25 For no later than school year~~  
3 ~~2011-12 and each school year thereafter~~, the state board shall prescribe  
4 a statewide assessment of science. The statewide assessment of science  
5 shall include assessment instruments for each of the grade levels  
6 selected by the state board and standards adopted by the state board  
7 pursuant to section 79-760.01. The grade levels shall include at least  
8 one grade in elementary school, one grade in middle school or junior high  
9 school, and one grade in high school.

10 (8) The department shall conduct studies to verify the technical  
11 quality of assessment instruments and demonstrate the comparability of  
12 assessment instrument results required by the act. The department shall  
13 annually report such findings to the Governor, the Legislature, and the  
14 state board. The report submitted to the Legislature shall be submitted  
15 electronically.

16 (9) The state board shall recommend national assessment instruments  
17 for the purpose of national comparison. Beginning with school year  
18 2025-26, the state board shall select national assessment instruments for  
19 purposes of the statewide assessment plan. Beginning with school year  
20 2017-18, the state board shall select a national assessment instrument  
21 that is also used as a standard college admission test which shall be  
22 administered to students in the eleventh grade in every public high  
23 school in each school district. Each school district shall report  
24 individual student data for scores and sub-scores according to procedures  
25 established by the state board and the department pursuant to section  
26 79-760.05.

27 (10)(a) No later than the 2025-26 school year, and each school year  
28 thereafter, the school board of a school district or the governing board  
29 of an approved or accredited private, denominational, or parochial school  
30 shall require that each student in kindergarten through twelfth grade  
31 take an age-appropriate national assessment instrument or instruments

1 selected by the state board for purposes of the statewide assessment plan  
2 pursuant to this section each school year. Such assessments shall include  
3 assessments in reading, writing, mathematics, and science. A national  
4 assessment instrument administered pursuant to subsection (9) of this  
5 section shall satisfy the requirements of this subsection for public  
6 school students in eleventh grade.

7 (b) The school board of a school district or the governing board of  
8 an approved or accredited private, denominational, or parochial school  
9 shall report individual student data for scores and sub-scores according  
10 to the procedures established by the state board and the department  
11 pursuant to section 79-760.05.

12 (c) The aggregate results of national assessment instruments for an  
13 approved or accredited private, denominational, or parochial school shall  
14 be reported by such school to the State Department of Education.

15 (11) ~~(10)~~ The aggregate results of assessment instruments and  
16 national assessment instruments for public schools shall be reported by  
17 the district on a building basis to the public in that district, to the  
18 learning community coordinating council if such district is a member of a  
19 learning community, and to the department. Each learning community shall  
20 also report the aggregate results of any assessment instruments and  
21 national assessment instruments to the public in that learning community  
22 and to the department. The department shall report the aggregate results  
23 of any assessment instruments and national assessment instruments on a  
24 learning community, district, and building basis as part of the statewide  
25 assessment and reporting system.

26 (12)(a) ~~(11)(a)~~ The assessment and reporting plan shall:

27 (i) Provide for the confidentiality of the results of individual  
28 students; and

29 (ii) Include (A) all public schools and all public school students  
30 and (B) all approved or accredited private, denominational, or parochial  
31 schools and the students that attend such schools as required pursuant to

1 subsection (10) of this section.

2 (b) The state board shall adopt criteria for the inclusion of  
3 students with disabilities, students entering the school for the first  
4 time, and students with limited English proficiency.

5 The department may determine appropriate accommodations for the  
6 assessment of students with disabilities or any student receiving special  
7 education programs and services pursuant to section 79-1139. Alternate  
8 academic achievement standards in reading, mathematics, and science and  
9 alternate assessment instruments aligned with the standards may be among  
10 the accommodations for students with severe cognitive disabilities.

11 ~~(13)~~ ~~(12)~~ The state board may select additional grade levels,  
12 subject areas, or assessment instruments for statewide assessment  
13 consistent with federal requirements.

14 ~~(14)~~ ~~(13)~~ The state board shall not require school districts to  
15 administer assessments or assessment instruments which are not consistent  
16 with the act.

17 ~~(15)~~ ~~(14)~~ The state board may appoint committees of teachers, from  
18 each appropriate subject area, and administrators to assist in the  
19 development of statewide assessment instruments or selection of national  
20 assessment instruments required by the act.

21 Sec. 2. Section 79-760.05, Revised Statutes Cumulative Supplement,  
22 2022, is amended to read:

23 79-760.05 (1) The State Board of Education shall implement a  
24 statewide system for tracking individual student achievement, using the  
25 student identifier system of the State Department of Education, that can  
26 be aggregated to track student progress by demographic characteristics,  
27 including, but not limited to, race, poverty, high mobility, attendance,  
28 and limited English proficiency, on available measures of student  
29 achievement which include, but need not be limited to, national  
30 assessment instruments, state assessment instruments, and the indicators  
31 used in the accountability system required pursuant to section 79-760.06.

1 Such a system shall be designed so as to aggregate student data by  
2 available educational input characteristics, which may include class  
3 size, teacher education, teacher experience, special education, early  
4 childhood programs, federal programs, and other targeted education  
5 programs. School districts and approved or accredited private,  
6 denominational, and parochial schools shall provide the department with  
7 individual student achievement data from assessment instruments and  
8 national assessment instruments as required pursuant to section 79-760.03  
9 in order to implement the statewide system.

10 (2)(a) On or before August 1, 2022, the state board shall also  
11 implement a statewide system for tracking individual student discipline,  
12 using the student identifier system of the department, that can be  
13 aggregated to track student discipline by type of discipline and  
14 demographic characteristics, including, but not limited to, race,  
15 poverty, high mobility, attendance, disability, and limited English  
16 proficiency. The state board shall cause each school district to report,  
17 by individual student, any:

18 (i) Act resulting in an in-school suspension, a short-term  
19 suspension, a long-term suspension, a one-semester expulsion, a two-  
20 semester expulsion, an assignment to an alternative school or  
21 alternative-learning program, the use of physical intervention with such  
22 student, or the restraint or seclusion of such student;

23 (ii) Offense constituting grounds for a long-term suspension, an  
24 expulsion, or a mandatory reassignment pursuant to section 79-267,  
25 regardless of consequences assigned; and

26 (iii) Act resulting in law enforcement involvement, including any  
27 incident reported to law enforcement or to an onsite school resource  
28 officer, and any school-related citation or arrest.

29 (b) For purposes of this subsection, school-related citation or  
30 arrest shall include a citation or arrest of a student for any activity  
31 conducted on school grounds; in a vehicle owned, leased, or contracted by

1 a school being used for a school purpose or in a vehicle being driven for  
2 a school purpose by a school employee or by such employee's designee; or  
3 at a school-sponsored activity or athletic event.

4 (c) The system for tracking individual student discipline may also  
5 be used to record other disciplinary incidents.

6 (d) Each school shall designate at least one discipline data  
7 coordinator for the purposes of gathering and reporting the discipline  
8 data required pursuant to this subsection.

9 (3) The department shall annually analyze and report on student  
10 achievement for each approved or accredited private, denominational, or  
11 parochial school and on student achievement and ~~on~~ student discipline for  
12 the state, each school district, each public school, and each learning  
13 community aggregated by the demographic characteristics described in  
14 subsection (1) of this section. The department shall report the findings  
15 to the Governor, the Legislature, school districts, educational service  
16 units, and each learning community. The report submitted to the  
17 Legislature shall be submitted electronically. Such analysis shall  
18 include aggregated data that would indicate differences in achievement  
19 and differences in student discipline due to available educational input  
20 characteristics described in subsection (1) of this section. Such  
21 analysis shall include indicators of progress toward state achievement  
22 goals for students in poverty, limited English proficient students,  
23 students with disabilities, and highly mobile students.

24 Sec. 3. Section 79-2603, Revised Statutes Cumulative Supplement,  
25 2022, is amended to read:

26 79-2603 (1) Each school district shall administer an approved  
27 reading assessment three times during the school year to all students in  
28 kindergarten through grade three, except for any student receiving  
29 specialized instruction for limited English proficiency who has been  
30 receiving such instruction for less than two years, any student receiving  
31 special education services for whom such assessment would conflict with



1 the individualized education program plan, and any student receiving  
2 services under a plan pursuant to the requirements of section 504 of the  
3 federal Rehabilitation Act of 1973, 29 U.S.C. 794, or Title II of the  
4 federal Americans with Disabilities Act of 1990, 42 U.S.C. 12131 to  
5 12165, as such acts and sections existed on January 1, 2021, for whom  
6 such assessment would conflict with such section 504 or Title II plan.  
7 The first administration of such assessment for kindergarten students  
8 shall occur within the first forty-five calendar days that school is in  
9 session of each school year and for all other grades within the first  
10 thirty calendar days that school is in session of each school year.

11 (2) For purposes of the Nebraska Reading Improvement Act, an  
12 approved reading assessment means an assessment of student reading skills  
13 approved by the State Department of Education which:

14 (a) Measures progress toward proficiency in the reading skills  
15 assessed pursuant to subsection (5) or (10) of section 79-760.03 on the  
16 statewide assessment of reading for grade three;

17 (b) Is valid and reliable;

18 (c) Is aligned with academic content standards for reading adopted  
19 by either the State Board of Education pursuant to section 79-760.01 or  
20 the school district administering such assessment pursuant to section  
21 79-760.02;

22 (d) Allows teachers access to results in a reasonable time period as  
23 established by the department, not to exceed fifteen contract days; and

24 (e) Is commercially available and complies with requirements  
25 established by the department.

26 (3) On or before March 1, 2019, and on or before each March 1  
27 thereafter, the department shall make public the list of approved reading  
28 assessments for the subsequent school year and the threshold level of  
29 performance for each such assessment. A student performing below the  
30 threshold level shall be identified as having a reading deficiency for  
31 purposes of the Nebraska Reading Improvement Act.

1           (4) Diagnostic assessments used within a supplemental reading  
2 intervention program do not require department approval.

3           Sec. 4.    Original sections 79-760.03, 79-760.05, and 79-2603,  
4 Revised Statutes Cumulative Supplement, 2022, are repealed.