

LEGISLATIVE BILL 928

Approved by the Governor April 10, 1984

Introduced by Education Committee, Vickers, 38,
Chairperson; Harris, 27; Hoagland, 6;
Newell, 13; Goll, 16; Scofield, 49;
Eret, 32; H. Peterson, 35; DeCamp, 40

AN ACT relating to schools; to amend sections 79-201, 79-328, and 79-1701, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to required attendance; to change powers and duties of the State Board of Education; to provide for an election relating to accreditation and approval requirements; to provide alternative requirements as prescribed; to provide penalties; to prohibit certain actions; and to repeal the original sections.

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

Section 1. That section 79-201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-201. Every person residing in a school district within the State of Nebraska who has legal or actual charge or control of any child, not less than seven nor more than sixteen years of age, shall cause such child to attend regularly the public, private, denominational, or parochial day schools which have met the requirements for legal operation prescribed in Chapter 79 each day that such schools are open and in session except when excused by school authorities, unless such child has been graduated from high school. The term shall not be less than one hundred seventy-five days in any district, except that in the event of the failure of any district which receives twenty per cent or more of its total receipts for general fund purposes from federal sources, to actually receive receipts anticipated at the time of the adoption of the school budget from taxes, state funds, federal funds, tuition, or other sources, the board of education of such district may, at any time during the school year, elect to close all or part of its schools.

Sec. 2. That section 79-328, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-328. The State Board of Education shall have the power and it shall be its duty:

(1) To appoint and fix the compensation of the Commissioner of Education;

(2) To remove the commissioner from office at any time for conviction of any crime involving moral turpitude or felonious act, for inefficiency, or for

willful and continuous disregard of his or her duties as commissioner or of the directives of the board;

(3) Upon recommendation of the commissioner, to appoint and fix the compensation of a deputy commissioner and all professional employees of the board;

(4) To organize the State Department of Education into such divisions, branches, or sections as may be necessary or desirable to perform all its proper functions and to render maximum service to the board and to the state school system;

(5) To provide, through the commissioner and his or her professional staff, enlightened professional leadership, guidance, and supervision of the state school system. ~~In and, in~~ order that the commissioner and his or her staff may carry out their duties, the board shall, through the commissioner: 7 (a) ~~provide~~ Provide supervisory and consultative services to the schools of the state; 7 (b) issue materials helpful in the development, maintenance, and improvement of educational facilities and programs; 7 (c) establish rules and regulations which govern standards and procedures for the legal operation of all public, private, denominational, or parochial schools in the state. All public, private, denominational, or parochial schools shall either comply with the accreditation or approval requirements prescribed in this section and section 79-1247.02 or, for those schools which elect not to meet accreditation or approval requirements, the requirements prescribed in this section and subsections (2) to (4) of section 79-1701. Such accreditation and approval standards and procedure may be based upon the program of studies, guidance services, the number and preparation of teachers in relation to the curriculum and enrollment, instructional materials and equipment, science facilities and equipment, library facilities and materials, and health and safety factors in buildings and grounds. Rules and regulations which govern procedures and standards for private, denominational, and parochial schools which elect, pursuant to the procedures prescribed in subsections (2) to (4) of section 79-1701, not to meet state accreditation or approval requirements shall be based upon evidence that such schools offer a program of instruction leading to the acquisition of basic skills in the language arts, mathematics, science, social studies, and health. Such rules and regulations may include a provision for the visitation of such schools and regular achievement testing of students attending such schools in order to insure that such schools are offering instruction in the basic skills listed in this subdivision. Any arrangements for visitation or testing shall be made through a parent representative of each such school. The results of such testing may be used as evidence that such schools are offering instruction in such basic skills, but shall not be used to measure,

compare, or evaluate the competency of students at such schools; (d) establish rules and regulations and procedures for classifying, approving, and accrediting schools; for approving the opening of new schools; for the continued legal operation of all schools; and for the approval of high schools for the collection of nonresident high school tuition money in accordance with the rules and regulations provided for in this subdivision, except that the State Board of Education shall approve a school for the collection of nonresident high school tuition money when a hardship would result to the students and a substantial effort is being made to comply with the rules and regulations established; (e) and (d) institute a statewide system of testing to determine the degree of achievement and accomplishment of all the students within the state's school systems, if it determines such testing would be advisable; (f) and (e) prescribe a uniform system of records and accounting for keeping adequate educational and financial records, for gathering and reporting necessary educational data, and for evaluating educational progress; (g) and (f) cause to be published laws and regulations governing the schools and the school lands and funds, with explanatory notes for the guidance of those charged with the administration of the schools of the state; (h) and (g) approve teacher education programs conducted in Nebraska institutions of higher education designed for the purpose of certifying teachers; and (i) (h) approve general plans and adopt educational policies, standards, rules, and regulations for carrying out the board's responsibilities and those assigned the State Department of Education by the Legislature;

(6) To submit a biennial report to the Governor and the Clerk of the Legislature covering the actions of the board, the operations of the State Department of Education, and the progress and needs of the schools, and to recommend such legislation as may be necessary to satisfy these needs;

(7) To cause to be prepared and distributed reports designed to acquaint school district officers, teachers, and patrons of the schools with the conditions and needs of the schools;

(8) To provide for consultation with professional educators and lay leaders for the purpose of securing advice deemed necessary in the formulation of policies and in the effectual discharge of its duties;

(9) To cause such studies, investigations, and reports to be made and such information assembled as are necessary for the formulation of policies, for making plans, for evaluating the state school program, and for the making of essential and adequate reports;

(10) To submit to the Governor and the Legislature a budget necessary to finance the state school program, under its jurisdiction, including the internal

operation and maintenance of the State Department of Education;

(11) To interpret its own policies, standards, rules, and regulations and, upon reasonable request, hear complaints and disputes arising therefrom;

(12) With the advice of the Department of Motor Vehicles, to adopt reasonable standards, not inconsistent with existing statutes, governing: (a) The general design, equipment, color, operation, and maintenance of any vehicle with a manufacturer's rated seating capacity of eleven or more passengers used for the transportation of school children; and (b) the equipment, operation, and maintenance of any vehicle with a capacity of ten or less passengers used for the transportation of school children, when such vehicles are either owned or operated, or owned and operated, by any school district, or privately owned or operated under contract with any school district in this state. Similar standards are to be adopted for operators of such vehicles as to physical and mental qualities, driving skills and practices, and knowledge of traffic laws and regulations which relate to school bus transportation. Such rules and regulations shall by reference be made a part of any such contract with a school district. Any officer or employee of any school district who violates any of the regulations or fails to include obligations to comply with the regulations in any contract executed by him or her on behalf of a school district shall be guilty of a misdemeanor and shall, upon conviction thereof, be subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to comply with any of such regulations shall be guilty of breach of contract and such contract shall be canceled after notice and hearing by the responsible officers of such school district;

(13) To accept, on behalf of the Nebraska School for the Visually Handicapped, on behalf of the Nebraska School for the Deaf, or on behalf of any school for mentally retarded children which is exclusively owned by the State of Nebraska and under the control and supervision of the State Department of Education, devise of real property or donations or bequests of other property, or both, if in its judgment any such devise, donation, or bequest is for the best interest of any such school or the students attending thereat, or both, and may cause any such real estate to be irrigated or otherwise improved when, in its judgment, it would be advisable to do so; and

(14) Upon acceptance of any devise, donation, or bequest as provided in this section, to administer and carry out such devise or bequest in accordance with the terms and conditions thereof. If not prohibited by the terms and conditions of any such devise, donation, or bequest, it may sell, convey, exchange, or lease property so devised, donated, or bequeathed upon such terms and

conditions as it deems best and deposit all money derived from any such sale or lease in the State Department of Education Trust Fund.

Each member of the Legislature shall receive a copy of the report required by subdivision (6) of this section by making a request for it to the commissioner.

None of the duties prescribed in this section shall prevent the board from exercising such other duties as in its judgment may be necessary for the proper and legal exercise of its obligations.

Sec. 3. That section 79-1701, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1701. (1) All private, denominational, and parochial schools in the State of Nebraska, and all teachers employed or giving instruction therein, shall be subject to and governed by the provisions of the general school laws of the state so far as the same apply to grades, qualifications, and certification of teachers and promotion of pupils. All private, denominational, and parochial schools shall have adequate equipment and supplies, and shall be graded the same and shall have courses of study for each grade conducted therein, substantially the same as those given in the public schools where the children attending would attend in the absence of such private, denominational, or parochial schools.

(2) The provisions of subsections (2) to (4) of this section shall apply to any private, denominational, or parochial school in the State of Nebraska which elects not to meet state accreditation or approval requirements. Elections pursuant to such subsections shall be effective when a statement is received by the Commissioner of Education signed by the parents or legal guardians of all children attending such private, denominational, or parochial school stating that (a) the requirements for approval and accreditation required by law and the rules and regulations adopted and promulgated by the State Board of Education violate sincerely held religious beliefs of the parents or legal guardians, (b) an authorized representative of such parents or legal guardians will at least annually submit to the Commissioner of Education the information necessary to prove that the requirements of subdivisions (i) to (iii) of this subsection are satisfied, (c) the school offers the courses of instruction required by this subsection and section 79-328, and (d) the parents or legal guardians have satisfied themselves that individuals monitoring instruction at such school are qualified to monitor instruction in the basic skills as required by this subsection and section 79-328 and that such individuals have demonstrated an alternative competency to monitor instruction or supervise children pursuant to subsections (2) to (4) of this section. Each such school shall (i) meet minimum requirements relating to health, fire, and safety

standards prescribed by state law and the rules and regulations of the State Fire Marshal, (ii) report attendance pursuant to section 79-201, and (iii) maintain a sequential program of instruction designed to lead to basic skills in the language arts, mathematics, science, social studies, and health. The State Board of Education shall establish procedures for receiving information and reports required by subsections (2) to (4) of this section from authorized parent representatives who may act as agents for parents or legal guardians of students attending such school and for individuals monitoring instruction in the basic skills required by this subsection.

(3) Individuals employed by schools which elect not to meet state accreditation or approval requirements shall not be required to meet the certification requirements prescribed in Chapter 79, article 12, but shall either (a) take appropriate subject matter components of a nationally recognized teacher competency examination designated by the State Board of Education as (i) including the appropriate subject matter areas for purposes of satisfying the requirements of subsection (2) of this section and (ii) a nationally recognized examination or (b) offer evidence of competence to provide instruction in the basic skills required by subsection (2) of this section pursuant to informal methods of evaluation which shall be developed by the State Board of Education. Such evidence may include educational transcripts, diplomas, and other information regarding the formal educational background of such individuals. Information concerning test results, transcripts, diplomas, and other evidence of formal education may be transmitted to the State Department of Education by authorized representatives of parents or legal guardians. The results of such testing or alternative evaluation of individuals who monitor the instruction of students attending such schools may be used as evidence of whether or not such schools are offering adequate instruction in the basic skills prescribed in subsection (2) of this section and in section 79-328, but shall not be used to prohibit any such school from employing such individuals. Failure of a monitor, who is tested for the purpose of satisfying in whole or in part the requirements of subsections (2) to (4) of this section, to attain a score equal to or exceeding both the state or national average score or rating on appropriate subject matter components of recognized teacher competency examinations designated by the State Board of Education may be by itself sufficient proof that such school does not offer adequate instruction in the basic skills prescribed in subsection (2) of this section.

(4) The demonstration of competency to monitor instruction in a private, denominational, or parochial

school which has elected not to meet state accreditation or approval requirements shall in no way constitute or be construed to grant a license, permit, or certificate to teach in the State of Nebraska. Any school which elects not to meet state accreditation or approval requirements and does not meet the requirements of subsections (2) to (4) of this section shall not be deemed a school for purposes of section 79-201 and the parents or legal guardians of any children attending such school shall be subject to prosecution pursuant to section 79-201 or any statutes relating to habitual truancy.

Sec. 4. Any person who, as an authorized representative of a parent or legal guardian, transmits information required by subsections (2) to (4) of section 79-1701 knowing such information to be false shall be guilty of a Class IIIA misdemeanor.

Any person who knowingly gives false information to an authorized representative of a parent or legal guardian, knowing that such information is intended to be transmitted to the State Board of Education, shall be guilty of a Class IIIA misdemeanor.

Sec. 5. No publicly funded college or university in this state shall prohibit the admission of any child educated in any school which elects to meet the requirements of subsections (2) to (4) of section 79-1701 if the child is qualified for admission as shown by testing results.

Sec. 6. That original sections 79-201, 79-328, and 79-1701, Reissue Revised Statutes of Nebraska, 1943, are repealed.