

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1116

Introduced by Linehan, 39.

Read first time January 18, 2018

Committee:

1 A BILL FOR AN ACT relating to the Quality Education Accountability Act;
2 to amend sections 79-757, 79-758, and 79-760.05, Reissue Revised
3 Statutes of Nebraska, and sections 79-760.03 and 79-760.06, Revised
4 Statutes Cumulative Supplement, 2016; to create the Quality
5 Education Accountability Commission and the Quality Education
6 Accountability Office; to define terms; to change and provide powers
7 and duties for the commission, office, and the State Board of
8 Education as prescribed; to transfer authority for an accountability
9 system; to harmonize provisions; and to repeal the original
10 sections.

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

1 Section 1. Section 79-757, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 79-757 Sections 79-757 to 79-762 and sections 6 to 10 of this act
4 shall be known and may be cited as the Quality Education Accountability
5 Act.

6 Sec. 2. Section 79-758, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 79-758 For purposes of the Quality Education Accountability Act,
9 unless the context otherwise requires:

10 (1) Assessment means the process of measuring student achievement
11 and progress on state-adopted standards;

12 (2) Assessment instrument means a test aligned with state standards
13 that is designed to measure student progress and achievement; ~~and~~

14 (3) Commission means the Quality Education Accountability
15 Commission;

16 (4) Department means the State Department of Education;

17 (5) (3) National assessment instrument means a nationally norm-
18 referenced test developed and scored by a national testing service; and -

19 (6) Office means the Quality Education Accountability Office.

20 Sec. 3. Section 79-760.03, Revised Statutes Cumulative Supplement,
21 2016, is amended to read:

22 79-760.03 (1) For school year 2009-10 and each school year
23 thereafter, the State Board of Education shall implement a statewide
24 system for the assessment of student learning ~~and for reporting the~~
25 ~~performance of school districts and learning communities pursuant to this~~
26 ~~section.~~ The assessment ~~and reporting~~ system shall measure student
27 knowledge of subject matter materials covered by measurable academic
28 content standards selected by the state board.

29 (2) The state board shall adopt a plan for an assessment ~~and~~
30 ~~reporting~~ system and implement and maintain the assessment ~~and reporting~~
31 system according to such plan. The plan shall be submitted annually to

1 the commission, the State Department of Education, the Governor, the
2 chairperson of the Education Committee of the Legislature, and the Clerk
3 of the Legislature. The plan submitted to the committee and the Clerk of
4 the Legislature shall be submitted electronically. The state board shall
5 select grade levels for assessment ~~and reporting required pursuant to~~
6 ~~subsections (4) through (7) of this section.~~ The purposes of the system
7 are to:

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

11 (b) For school years prior to the 2019-20 school year, report Report
12 the performance of public schools based upon the results of state
13 assessment instruments and national assessment instruments;

14 (c) For school years prior to 2019-20 school year, provide Provide
15 information for the public and policymakers on the performance of public
16 schools; ~~and~~

17 (d) For school years prior to the 2019-20 school year, provide
18 ~~Provide~~ for the comparison among Nebraska public schools and the
19 comparison of Nebraska public schools to public schools elsewhere; ~~and -~~

20 (e) For school year 2019-20 and each school year thereafter, provide
21 the necessary data to allow the commission to analyze assessment results
22 and report comparisons among Nebraska public schools and comparisons of
23 Nebraska public schools to public schools elsewhere.

24 (3) The Governor shall appoint a technical advisory committee to
25 review (a) the statewide assessment plan, (b) state assessment
26 instruments, and (c) the accountability system developed under the
27 Quality Education Accountability Act. The technical advisory committee
28 shall consist of three nationally recognized experts in educational
29 assessment and measurement, one administrator from a school in Nebraska,
30 and one teacher from a school in Nebraska. The members shall serve terms
31 of three years, except that two of the members shall be appointed for

1 initial terms of two years. Any vacancy shall be filled by the Governor
2 for the remainder of the term. One of the members shall be designated as
3 chairperson by the Governor. Members shall be reimbursed for their actual
4 and necessary expenses as provided in sections 81-1174 to 81-1177. The
5 committee shall advise the Governor, the state board, and the State
6 Department of Education on the development of statewide assessment
7 instruments and the statewide assessment plan. The appointments to the
8 committee shall be confirmed by the Legislature.

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

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

23 (6) For no later than school year 2010-11 and for each school year
24 thereafter, the state board shall prescribe a statewide assessment of
25 mathematics. The statewide assessment of mathematics shall include
26 assessment instruments for each of the grade levels three through eight
27 and for one grade in high school and standards adopted by the state board
28 pursuant to section 79-760.01.

29 (7) For no later than school year 2011-12 and each school year
30 thereafter, the state board shall prescribe a statewide assessment of
31 science. The statewide assessment of science shall include assessment

1 instruments for each of the grade levels selected by the state board and
2 standards adopted by the state board pursuant to section 79-760.01. The
3 grade levels shall include at least one grade in elementary school, one
4 grade in middle school or junior high school, and one grade in high
5 school.

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

12 (9) The state board shall recommend national assessment instruments
13 for the purpose of national comparison. Beginning with school year
14 2017-18, the state board shall select a national assessment instrument
15 that is also used as a standard college admission test which shall be
16 administered to students in the eleventh grade in every public high
17 school in each school district. Each school district shall report
18 individual student data for scores and sub-scores according to procedures
19 established by the state board and the department pursuant to section
20 79-760.05.

21 (10) The aggregate results of assessment instruments and national
22 assessment instruments shall be reported by the district on a building
23 basis to the public in that district, to the learning community
24 coordinating council if such district is a member of a learning
25 community, and to the department. Each learning community shall also
26 report the aggregate results of any assessment instruments and national
27 assessment instruments to the public in that learning community and to
28 the department. The department shall report the aggregate results of any
29 assessment instruments and national assessment instruments on a learning
30 community, district, and building basis as part of the statewide
31 assessment and reporting system.

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

2 (i) Provide for the confidentiality of the results of individual
3 students; and

4 (ii) Include all public schools and all public school students.

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

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

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

17 (13) The state board shall not require school districts to
18 administer assessments or assessment instruments which are not consistent
19 with the act.

20 (14) The state board may appoint committees of teachers, from each
21 appropriate subject area, and administrators to assist in the development
22 of statewide assessment instruments required by the act.

23 Sec. 4. Section 79-760.05, Reissue Revised Statutes of Nebraska, is
24 amended to read:

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

1 assessment instruments, state assessment instruments, and the indicators
2 used in the accountability system required pursuant to section 79-760.06.
3 Such a system shall be designed so as to aggregate student data by
4 available educational input characteristics, which may include class
5 size, teacher education, teacher experience, special education, early
6 childhood programs, federal programs, and other targeted education
7 programs. School districts shall provide the department with individual
8 student achievement data from assessment instruments required pursuant to
9 section 79-760.03 in order to implement the statewide system.

10 (2) For school years prior to 2019-20, the The department shall
11 annually analyze and report on student achievement for the state, each
12 school district, each public school, and each learning community
13 aggregated by the demographic characteristics described in subsection (1)
14 of this section. The department shall report the findings to the
15 Governor, the Legislature, school districts, educational service units,
16 and each learning community. The report submitted to the Legislature
17 shall be submitted electronically. Such analysis shall include aggregated
18 data that would indicate differences in achievement due to available
19 educational input characteristics described in subsection (1) of this
20 section. Such analysis shall include indicators of progress toward state
21 achievement goals for students in poverty, limited English proficient
22 students, and highly mobile students.

23 (3) For school year 2019-20 and each school year thereafter, the
24 department shall provide the commission with the information described in
25 subsection (1) of this section with the personally identifiable
26 information for students removed.

27 Sec. 5. Section 79-760.06, Revised Statutes Cumulative Supplement,
28 2016, is amended to read:

29 79-760.06 For school years prior to the 2019-20 school year:

30 (1) ~~The On or before August 1, 2012, the~~ State Board of Education
31 shall establish an accountability system to be used to measure the

1 performance of individual public schools and school districts. The
2 accountability system shall combine multiple indicators, including, but
3 not limited to, graduation rates, student growth and student improvement
4 on the assessment instruments provided in section 79-760.03, and other
5 indicators of the performance of public schools and school districts as
6 established by the state board.

7 (2) ~~The Beginning with the reporting of data from school year~~
8 ~~2014-15,~~ the indicators selected by the state board for the
9 accountability system shall be combined into a school performance score
10 and district performance score. The state board shall establish levels of
11 performance based upon school performance scores and district performance
12 scores in order to classify the performance of public schools and school
13 ~~districts beginning with the reporting of data from school year 2014-15.~~
14 The state board shall designate priority schools based on such
15 classification. Schools designated as priority schools shall be at the
16 lowest performance level at the time of the initial priority school
17 designation. Schools designated as priority schools shall remain priority
18 schools until such designation is removed by the state board. No less
19 ~~more~~ than three schools may have a priority school designation at one
20 time. Schools designated as priority schools shall be subject to the
21 requirements of section 79-760.07. Progress plans for the initial schools
22 designated as priority schools shall be approved by the state board no
23 later than August 15, 2016. The Quality Education Accountability
24 Commission ~~State Department of Education~~ shall annually report the
25 performance score level of individual public schools and school districts
26 as part of the statewide assessment and reporting system.

27 (3) This section terminates on August 1, 2020.

28 Sec. 6. (1) The Quality Education Accountability Commission is
29 created. The commission shall consist of five members as follows:

30 (a) Two members with expertise in educational assessment at the
31 elementary, secondary, or postsecondary level, appointed by the Governor

1 and confirmed by the Legislature; and

2 (b) Three members from the citizenry of the state at large who have
3 experience in education or a demonstrated interest in educational
4 assessment and accountability appointed by the Governor and confirmed by
5 the Legislature.

6 (2) One of the initial members appointed pursuant to subdivision (1)
7 (a) of this section and two of the members appointed pursuant to
8 subdivision (1)(b) of this section shall be appointed for one-year terms.
9 All other members shall be appointed for two-year terms.

10 (3) The State Board of Education may select up to three of its
11 members to serve as ex officio members of the commission for terms
12 designated by the board.

13 (4) Members shall be reimbursed for their actual and necessary
14 expenses as provided in sections 81-1174 to 81-1177.

15 Sec. 7. (1) The Quality Education Accountability Commission shall:

16 (a) Adopt, implement, and maintain a reporting system as provided in
17 section 9 of this act; and

18 (b) Adopt, implement, and maintain an accountability system as
19 provided in section 10 of this act.

20 (2) The commission may appoint advisory committees of teachers,
21 administrators, and the public to assist in the development and
22 maintenance of the reporting and accountability system pursuant to the
23 act.

24 Sec. 8. (1) The Quality Education Accountability Office is created.
25 The office shall be an agency of state government. The office shall be
26 separate from any existing department of the executive branch of
27 government.

28 (2) The chief executive officer of the office shall be known as the
29 Director of Quality Education Accountability and shall be appointed by
30 the Governor. The director shall serve as the primary staff for the
31 commission and shall serve at the pleasure of the Governor. The director

1 may employ such assistants, professional staff, and other employees as
2 may be deemed necessary to effectively carry out the provisions of the
3 Quality Education Accountability Act. The salary of the director shall be
4 fixed by the commission unless otherwise expressly provided for by law.

5 (3) The office shall have the following powers and duties:

6 (a) To serve as staff for the commission;

7 (b) To develop guidelines for local and state reporting for
8 educational assessments;

9 (c) To develop and implement a statewide reporting and
10 accountability transition plan with the State Department of Education;

11 (d) To make contracts pursuant to the act and to do all things
12 necessary to carry out the responsibilities of the commission and the
13 office;

14 (e) To enter into such agreements as are necessary to carry out
15 accountability research; and

16 (f) To carry out duties and responsibilities relating to reporting
17 and accountability as may be requested or required by the federal
18 government.

19 Sec. 9. (1) For school year 2019-20 and each school year
20 thereafter, the commission shall implement a statewide reporting and
21 accountability system. The reporting and accountability system shall
22 report to the state, the public, and any other interested parties on the
23 performance of public schools, school districts, and learning communities
24 pursuant to this section. The system shall use student performance data
25 from assessments pursuant to section 79-760.03 and national assessment
26 instruments for such school years in addition to any other data the
27 commission finds relevant.

28 (2) The commission shall plan, implement, and maintain such
29 reporting and accountability system. The purposes of the system are to:

30 (a) Determine how well public schools are performing in terms of
31 achievement of public school students related to the state academic

1 content standards;

2 (b) Report the aggregate results of assessment instruments and
3 national assessment instruments to the public on a school building,
4 school district, and learning community basis;

5 (c) Provide for the comparison among Nebraska public schools and the
6 comparison of Nebraska public schools to public schools elsewhere; and

7 (d) Provide other relevant information for the public and
8 policymakers related to the performance of public schools.

9 (3) The reporting and accountability system shall:

10 (a) Provide for the confidentiality of the results of individual
11 students; and

12 (b) Include all public schools and all public school students for
13 which the commission has data.

14 (4) As part of the reporting and accountability system, the
15 commission shall annually analyze and report on student achievement for
16 the state, each school district, each public school, and each learning
17 community aggregated by the demographic characteristics described in
18 section 79-760.05. Such analysis shall include aggregated data that would
19 indicate differences in achievement due to available educational input
20 characteristics provided in section 79-760.05 and shall also include
21 indicators of progress toward state achievement goals for students in
22 poverty, limited English proficient students, and highly mobile students.

23 (5) As part of the reporting and accountability system, the
24 commission shall establish a classification system to be used to measure
25 the performance of individual public schools and school districts for
26 school year 2019-20 and each school year thereafter. The classification
27 system shall combine multiple indicators, including, but not limited to,
28 graduation rates, student growth and student improvement on the
29 assessment instruments provided in section 79-760.03.

30 (6) Beginning with the reporting of data from school year 2019-20,
31 the indicators selected by the commission for the classification system

1 shall be combined into a school performance score and district
2 performance score. The commission shall establish levels of performance
3 based upon school performance scores and district performance scores in
4 order to classify the performance of public schools and school districts
5 beginning with the reporting of data from school year 2019-20.

6 (7) The commission shall designate priority schools based on such
7 classification. Schools designated as priority schools shall be at the
8 lowest performance level at the time of the initial priority school
9 designation. Schools designated as priority schools shall remain priority
10 schools until such designation is removed by the commission. Schools
11 designated as priority schools shall be subject to the requirements of
12 section 79-760.07. The commission shall annually report the performance
13 level of individual public schools and school districts as part of the
14 statewide assessment and reporting system.

15 (8) The commission shall provide all reports and findings of the
16 commission to the Governor and Legislature and to each school district,
17 educational service unit, and learning community. The report submitted to
18 the Legislature shall be submitted electronically.

19 Sec. 10. The department shall provide the commission with any data
20 and information requested by the commission to the extent that the
21 department has the data or information and the commission is not
22 requesting the personally identifiable information of students. The
23 department shall ensure that the personally identifiable information of
24 students is removed from data provided to the commission. The department
25 and the commission shall ensure that all student data and information in
26 their possession is handled in conformance with the requirements of the
27 federal Family Educational Rights and Privacy Act of 1974, as amended, 20
28 U.S.C. 1232g, and all federal regulations and applicable guidelines
29 adopted in accordance with such act, as such act, regulations, and
30 guidelines existed on January 1, 2018.

31 Sec. 11. Original sections 79-757, 79-758, and 79-760.05, Reissue

- 1 Revised Statutes of Nebraska, and sections 79-760.03 and 79-760.06,
- 2 Revised Statutes Cumulative Supplement, 2016, are repealed.