LEGISLATIVE BILL 617

Introduced by Larson, 40; Schilz, 47.

Read first time January 21, 2015

Committee:

1 A BILL FOR AN ACT relating to schools; to adopt the Working to Improve Nebraska Schools Act; and to provide severability.

2 Be it enacted by the people of the State of Nebraska,
Section 1. This act shall be known and may be cited as the Working to Improve Nebraska Schools Act.

Sec. 2. It is the intent of the Legislature that:

(1) Each student's progression from one grade to the next grade be determined, in part, by his or her proficiency in reading;

(2) School board policies facilitate reading instruction and intervention services to address student reading needs;

(3) Each student and his or her parent be informed of the student's reading progress; and

(4) Each student in a public school be able to read at or above grade level by grade three.

Sec. 3. School districts shall offer an accelerated reading intervention program to each student in kindergarten, first grade, second grade, and third grade who exhibits a reading deficiency, for the purpose of preventing grade three student retention. The accelerated reading intervention program shall:

(1) Be provided to all students in kindergarten, first grade, second grade, and third grade who are identified as having a reading deficiency based upon state-approved local or statewide assessments;

(2) Screen and monitor the reading progress of each student's foundational reading skills no fewer than three times per year;

(3) Provide highly effective core reading instruction that is comprehensive and meets the majority of the general education classroom needs; and

(4) Meet at least the following specifications:

(a) Assist students exhibiting a reading deficiency in developing the ability to read at grade level;

(b) Provide intensive development in phonemic awareness, phonics, fluency, vocabulary, and reading comprehension;

(c) Provide scientifically based reliable and valid assessments;

(d) Provide initial and ongoing analysis of each student's reading
progress; and

(e) Be implemented during regular school hours in addition to the regular reading instruction.

Sec. 4. Any student who exhibits a deficiency in reading at any time, based upon state-approved local or statewide assessments conducted in grades kindergarten, one, two, or three shall receive an individual reading improvement plan no later than thirty days after identification of the reading deficiency. The reading improvement plan shall be created by the teacher, the principal, other pertinent school personnel, and the parents of the student and shall describe the reading intervention services the student will receive to remedy the reading deficit. Each student receiving reading intervention services shall be screened and his or her progress monitored no fewer than three times per year and be provided with intensive reading intervention services until the student no longer has a reading deficiency.

Sec. 5. The school of any student in kindergarten, grade one, grade two, or grade three, which student exhibits a deficiency in reading at any time during the school year, shall notify the student's parent in writing no later than thirty days after the identification of the reading deficiency. The written notification shall include the following:

(1) That his or her child has been identified as having a deficiency in reading and an individual reading improvement plan will be established by the teacher, the principal, other pertinent school personnel, and the parent;

(2) A description of the current services that are provided to the child;

(3) A description of the proposed reading intervention and supplemental instructional services and support that will be provided to the child which are designed to remedy the identified area or areas of reading deficiency;

(4) Strategies for parents to use at home in helping the child
succeed in reading;

(5) That if the student's reading deficiency is not corrected by the end of grade three, the student will not be promoted to grade four unless he or she qualifies for an exemption pursuant to section 7 of this act; and

(6) That while the statewide assessment is the initial determinant for promotion at the end of grade three, it is not the sole determinant of promotion and that additional evaluations, including, but not limited to, portfolio reviews and alternative assessments, are available pursuant to such exemptions.

Sec. 6. (1) Beginning with school year 2016-17, if the student's reading deficiency identified pursuant to section 5 of this act is not remedied by the end of grade three as demonstrated by the student scoring below grade level on the grade three statewide reading assessment, the student must be retained in grade three unless he or she qualifies for an exemption pursuant to section 7 of this act.

(2) Each school district shall provide summer reading camps to all grade three students scoring below grade level on the grade three statewide reading assessment. Summer reading camps shall be staffed with teachers of reading who have attained master teacher status pursuant to the Master Teacher Program Act. The master teacher shall provide reading intervention services and support to correct the identified area or areas of reading deficiency.

Sec. 7. (1) A school board may only exempt students from mandatory retention pursuant to section 6 of this act for good cause. The exemption shall apply to the following students:

(a) A student who demonstrates grade level performance on an alternative standardized reading assessment approved by the State Board of Education;

(b) A student who demonstrates, through a student portfolio, grade level performance as evidenced by demonstrating mastery of all grade
three state reading standards through multiple work samples;

(c) A child with a disability as defined in section 79-1117 who has an individualized education plan which indicates that participation in the statewide assessment program is not appropriate;

(d) A limited English proficiency student as defined in section 79-1003 who has had less than two years of instruction pursuant to a limited English proficiency plan;

(e) A child with a disability as defined in section 79-1117 who participates in the statewide assessment and has an individualized education plan that reflects that the student has received intensive reading intervention services for more than two years but still demonstrates a deficiency in reading and was previously retained in kindergarten, grade one, grade two, or grade three; and

(f) A student who has received intensive reading intervention services for two or more years but still demonstrates a deficiency in reading and who was previously retained in kindergarten, grade one, grade two, or grade three for a total of two years.

(2) A request to exempt a student from mandatory retention pursuant to one of the exemptions described in subsection (1) of this section shall be made as follows:

(a) The student's teacher shall submit documentation to the school principal recommending promotion of the student. Such documentation shall consist of only material supporting the exemption being requested, the existing reading improvement plan or individualized education plan, and the alternative assessment or student portfolio results as applicable; and

(b) The school principal shall review and discuss the recommendation with the teacher and make the determination as to whether the student should be promoted. If the principal determines that the student should be promoted based on the documentation provided, the principal shall make such recommendation in writing to the superintendent of the school.
district. The superintendent shall accept or reject the principal's recommendation in writing.

(3) If a student is promoted to grade four with an exemption pursuant to this section, his or her school shall provide the student with intensive reading intervention services that include specialized diagnostic information and specific reading strategies to meet the needs of such student. The school district shall assist schools and teachers with the implementation of reading strategies demonstrated by research to be successful in improving reading among students with reading deficiencies.

Sec. 8. A school district shall assist schools with providing written notification to the parent of any student who is retained pursuant to section 6 of this act that such student has not met the proficiency level required for promotion, the reasons the student is not eligible for an exemption pursuant to section 7 of this act, and that the student will be retained in grade three. The notification shall include a description of the proposed interventions and support that will be provided to the student to remedy the identified area or areas of reading deficiency.

Sec. 9. Beginning with school year 2016-17, the school of any student retained pursuant to section 6 of this act shall provide such student with intensive reading intervention to remedy the student's specific reading deficiency, as identified by a valid and reliable diagnostic assessment. Such reading intervention services shall include effective instructional strategies necessary to assist such student in becoming a successful reader and ready for promotion to the next grade.

Each school district shall:

(1) Conduct a review of student reading improvement plans for all students who scored below grade level on the reading portion of the statewide assessment and who did not meet the criteria for one of the exemptions under section 7 of this act. The review shall address
additional support and services as described in this section which are
available to correct the identified area or areas of reading deficiency;

(2) Provide retained students with teachers of reading who have
attained master teacher status pursuant to the Master Teacher Program
Act;

(3) Provide retained students with reading intervention services and
support to correct the identified area or areas of reading deficiency,
including, but not limited to:

(a) More dedicated time than the previous school year spent in
reading instruction and intervention which is based in scientific
research;

(b) Daily targeted small group reading intervention based on student
needs as determined by diagnostic assessment data;

(c) Reading programs based in scientific research which have
demonstrated results in accelerating student reading achievement within
the same school year;

(d) Explicit and systematic instruction with more detailed
explanations, more extensive opportunities for guided practice, and more
opportunities for error correction and feedback;

(e) Administration of assessments to frequently monitor student
progress; and

(f) Before-school or after-school supplemental reading intervention
based in research, delivered by a teacher or tutor with specialized
reading training; and

(4) Provide parents of retained students with a read-at-home plan
outlined in a parental contract, including, but not limited to,
participation in parent training workshops and regular parent-guided home
reading.

Sec. 10. (1) Each public school shall establish an intensive
acceleration class for any student retained in grade three who was
previously retained in kindergarten, grade one, grade two, or grade
three. The focus of the intensive acceleration class shall be to increase a child's reading level at least two grade levels in one school year.

(2) The intensive acceleration class shall:

(a) Have a reduced teacher-student ratio;

(b) Provide students with teachers of reading who have attained master teacher status pursuant to the Master Teacher Program Act;

(c) Provide reading instruction and intervention for the majority of student contact time each day and incorporate opportunities to master the grade four state standards in other core academic areas;

(d) Use reading programs based in scientific research which have proven results in accelerating student reading achievement within the same school year;

(e) Provide intensive language and vocabulary instruction, including, but not limited to, use of a speech-language therapist;

(f) Administer assessments to frequently monitor student progress;

(g) Provide students the option of being placed in a transitional instructional setting. Such setting shall be designed specifically to produce learning gains sufficient to meet grade four performance standards while continuing to correct the area or areas of reading deficiency;

(h) Provide before-school or after-school supplemental reading instruction based in research and delivered by a teacher or tutor with specialized reading training; and

(i) Provide parents with a read-at-home plan outlined in a parental contract, including, but not limited to, participation in parent training workshops and regular parent-guided home reading.

(3) Each school district shall report to the State Department of Education, in the manner prescribed by the department, the progress of every student enrolled in the intensive acceleration class at the end of the first semester.

Sec. 11. By September 1 of each year, each school board shall
annually report in writing to the State Department of Education the following information on the prior school year:

(1) The school board's policies and procedures on student retention and promotion;

(2) By grade, the number and percentage of all students in grades kindergarten, one, two, and three who were identified with a reading deficiency at the beginning of the school year and who met grade level standards at the end of the school year, as demonstrated by achieving a passing score on the state-approved local assessment or statewide assessment;

(3) By grade, the number and percentage of all students in grades kindergarten, one, two, and three performing below grade level on the state-approved local assessment or statewide assessment;

(4) By grade, the number and percentage of all students retained in grades kindergarten, one, two, and three;

(5) Information on the total number and percentage of students in grade three who were promoted pursuant to an exemption pursuant to section 7 of this act, by each category of good cause described in such section; and

(6) Any revisions to the school board's policy on student retention and promotion from the prior year's report.

Sec. 12. The State Department of Education shall establish a uniform format for school districts to report the information required pursuant to section 11 of this act. The format shall be developed with input from school boards and shall be provided to each school district no later than ninety days prior to the annual due date. The department shall annually compile the information required along with state-level summary information and report such information to the State Board of Education, the public, the Governor, and electronically to the Legislature by October 1 of each year. The department shall provide technical assistance as needed to assist school boards in carrying out this section.
Sec. 13. For purposes of sections 13 to 20 of this act:

(1) Department means the State Department of Education or an organization chosen by the state; and

(2) Statewide assessment means the statewide assessment conducted pursuant to the Quality Education Accountability Act.

Sec. 14. The department shall prepare an annual report of the results of the statewide assessment to describe student achievement in the state as a whole, in each school district, and in each school. The annual report shall include, but not be limited to:

(1) Descriptions of the performance of all schools participating in the statewide assessment system and all of their major student populations as determined by the department; and

(2) The median scores of all eligible students who scored in the lowest twenty-fifth percentile on the statewide assessment in the previous reporting period, except that the provisions of the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as such act existed on January 1, 2015, pertaining to student records and any Nebraska laws pertaining to privacy of student records apply to this section.

Sec. 15. (1) The annual report required pursuant to section 14 of this act shall grade each public school pursuant to the grading scale in this subsection:

(a) A — Making excellent progress;
(b) B — Making above-average progress;
(c) C — Making satisfactory progress;
(d) D — Making less than satisfactory progress; and
(e) F — Failing to make adequate progress.

(2) The department shall develop school awards for schools that improve at least one grade level over the previous reporting period or maintain a grade of A.

(3) Each school with a grade of A or having improved at least two
grade levels over the previous reporting period shall have greater
authority over the allocation of the school's total budget, state
categorical funds, funds from the Education Innovation Fund, grants, and
local funds as specified in rules and regulations of the State Board of
Education. Such rules and regulations shall provide that the increased
budget authority shall remain in effect until the school's grade pursuant
to subsection (1) of this section is reduced.

Sec. 16. (1) Each school which has students who are tested and
included in the school grading system described in section 15 of this act
shall earn a school grade, except that a school shall not earn a school
grade if the number of its students tested and included in the school
grading system is less than the minimum sample size necessary, based on
accepted professional practice, for statistical reliability and for
prevention of the unlawful release of personally identifiable student
data under the federal Family Educational Rights and Privacy Act of 1974,
20 U.S.C. 1232g, as such act existed on January 1, 2015, pertaining to
student records and any Nebraska laws pertaining to privacy of student
records.

(2) A school's grade shall be based on a combination of:

(a) Student achievement scores on the statewide assessment for all
students enrolled in the school;

(b) Student learning gains for all students enrolled in the school
as measured by the statewide assessment; and

(c) Student learning gains of the students enrolled in the school
scoring in the lowest twenty-fifth percentile in reading and mathematics
on the statewide assessment.

(3) The department shall determine school grades based on the
following percentages: (a) Fifty percent on overall student achievement;
(b) twenty-five percent on the learning gains of all students; and (c)
twenty-five percent on the learning gains of the students enrolled in the
school scoring in the lowest twenty-fifth percentile in reading and
mathematics.

(4) Student assessment data used in determining school grades shall include:

(a) The aggregate scores of all eligible students enrolled in the school who have been assessed on the statewide assessment;

(b) The learning gain scores of all eligible students enrolled in the school who have been assessed on the statewide assessment and who have scored at or in the lowest twenty-fifth percentile of students in the school in reading and mathematics on such statewide assessment; and

(c) The learning gain scores of all eligible students.

For purposes of this subsection, eligible student does not include a student attending an alternative school who is subject to school board policies for expulsion for repeated or serious offenses, who is in a dropout retrieval program serving students who have officially been designated as dropouts, or who is in a program operated by the Office of Juvenile Services.

Sec. 17. The department shall annually develop, in collaboration with the school districts, a school report card to be delivered to parents of students enrolled in each school district. The report card shall include the school's grade pursuant to section 15 of this act, information regarding school improvement, an explanation of school performance as evaluated by the federal No Child Left Behind Act of 2001, as such act existed on January 1, 2015, and indicators of return on investment. The department on its web site shall publish each school's report card annually, and the school district shall provide the school report card to each parent.

Sec. 18. The annual report required by section 14 of this act shall include a school district grade. Such school district grade shall be based on a combination of:

(a) Student achievement scores on the statewide assessment for all students enrolled in the school district;
(b) Student learning gains for all students enrolled in the school
district as measured by the statewide assessment; and

(c) Student learning gains of the students enrolled in the school
district scoring in the lowest twenty-fifth percentile in reading and
mathematics on the statewide assessment.

Sec. 19. In any year in which eighty percent or more in the
aggregate of elementary, middle, or high schools earn a grade of A or B,
the department shall raise the number of points required to earn a school
grade for that level of school by five percent statewide.

Sec. 20. The Legislature may use the performance of schools as
determined by their grade pursuant to section 15 of this act as a factor
in calculating any performance-based funding.

Sec. 21. In addition to teachers' certificates issued pursuant to
sections 79-806 to 79-815, certificates to teach in the public schools in
Nebraska shall be granted by the State Board of Education, under rules
and regulations prescribed by it, as follows:

(1) On the basis of college credit or on the basis of passage of an
examination;

(2) To any person who presents to the state board a valid doctoral
dergee from a postsecondary educational institution accredited by a
regional accrediting agency. Such certificate shall be limited to the
major area of postgraduate study of the holder;

(3) To any person holding a valid teaching certificate issued by a
national or regional educator credentialing agency approved by the state
board. Such certificate holder shall annually complete the requirements
for such certification pursuant to rules and regulations of the state
board;

(4) To any person who possesses a valid teaching certificate from
another state. Such certificate holder shall annually complete the
requirements for such certification pursuant to rules and regulations of
the state board;
(5) Pursuant to an alternative certification program developed by the State Department of Education pursuant to rules and regulations of the state board; and

(6) To any person who has at least two years of teaching experience at the postsecondary level.

Issuance of a certificate under this section shall be subject to a criminal history record information check pursuant to section 79-814.01.

Sec. 22. The State Board of Education by rules and regulations shall provide for the issuance of an adjunct teaching certificate to any applicant who has expertise in the subject area to be taught and fulfills the requirements of the rules and regulations. An applicant shall be considered to have expertise in the subject area to be taught if the applicant demonstrates sufficient content mastery through passage of a subject area examination. The adjunct teaching certificate shall only be used for a part-time teaching position. Each adjunct teaching certificate is valid for five school years and is renewable if the applicant has received satisfactory performance evaluations during each year of teaching under the adjunct teaching certificate.

Sec. 23. The Legislature finds that:

(1) There is a need for a performance-based incentive program for outstanding faculty and staff in highly productive schools offering instruction in any of grades kindergarten through twelve; and

(2) Performance-based incentives are commonplace in the private sector and should be introduced into the public sector as a reward for productivity.

Sec. 24. (1) The School Recognition Program is created. The purpose of the program is to provide financial awards to public schools that:

(a) Sustain high performance by earning a grade of A pursuant to section 15 of this act; or

(b) Demonstrate exemplary performance by improving at least one letter grade or by improving more than one letter grade pursuant to the
act and sustaining the improvement the following school year.

(2) All public schools which earn a school grade pursuant to sections 13 to 20 of this act are eligible to participate in the School Recognition Program.

(3) All eligible schools shall receive financial awards depending on the availability of funds appropriated and the number and size of schools selected to receive an award. Funds shall be distributed to the school's fiscal agent and placed in the school's account and may only be used for purposes listed in section 25 of this act as determined jointly by the school's staff. If school staff cannot reach agreement by November 1 of the year in which the award is made, the funds shall be distributed by the school's principal pursuant to section 25 of this act.

Sec. 25. Awards under the School Recognition Program may only be used for:

(1) Nonrecurring bonuses to the faculty and staff of the school;

(2) Nonrecurring expenditures for educational equipment or materials to assist in maintaining and improving student performance; or

(3) Temporary personnel for the school to assist in maintaining and improving student performance.

Sec. 26. Awards under the School Recognition Program are not subject to collective bargaining pursuant to the Industrial Relations Act.

Sec. 27. Notwithstanding any other provision of law, the transfer of a teacher under contract with a school district to another school within such district shall not take effect until such transfer is approved by the principal of the receiving school.

Sec. 28. The State Board of Education may adopt and promulgate rules and regulations to carry out the Working to Improve Nebraska Schools Act.

Sec. 29. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect
1 the validity or constitutionality of the remaining portions.