

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 987

Introduced by Linehan, 39.

Read first time January 05, 2024

Committee:

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.