

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1179

Introduced by Groene, 42; Albrecht, 17; Brewer, 43; Clements, 2; Erdman, 47; Halloran, 33; Hansen, B., 16; Lowe, 37; McDonnell, 5; Murman, 38; Sanders, 45; Slama, 1.

Read first time January 19, 2022

Committee: Education

- 1 A BILL FOR AN ACT relating to education; to amend section 9-812, Revised
- 2 Statutes Supplement, 2021; to adopt the Classroom Safety
- 3 Intervention and Behavioral Awareness Training Act; to change
- 4 provisions relating to the Nebraska Education Improvement Fund; to
- 5 repeal the original section; and to declare an emergency.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Classroom Safety Intervention and Behavioral Awareness
3 Training Act.

4 Sec. 2. (1)(a) Beginning in school year 2022-23, each school
5 district or voluntarily participating approved or accredited private,
6 denominational, or parochial school shall ensure that each administrator,
7 teacher, paraprofessional, school nurse, and counselor has received or
8 will receive classroom safety intervention and behavioral awareness
9 training. Each administrator, teacher, paraprofessional, school nurse,
10 and counselor who has received such training shall receive a classroom
11 safety intervention and behavioral awareness training review at least
12 once every three years. Each school district may offer such training, or
13 similar training, to any other school employee at the discretion of the
14 school district or at the request of the employee. In addition, all
15 school employees shall have a basic awareness of the goals, strategies,
16 and schoolwide plans included in such training.

17 (b) Classroom safety intervention and behavioral awareness training
18 shall include, but not be limited to, evidence-based training on a
19 continuum that includes:

20 (i) Recognition of detrimental factors impacting student behavior,
21 including, but not limited to, signs of trauma;

22 (ii) Positive behavior support and proactive teaching strategies,
23 including, but not limited to, expectations and boundaries;

24 (iii) Verbal intervention and de-escalation techniques;

25 (iv) Information on the duties, parental and student rights, and
26 responsibilities outlined in the Student Discipline Act and case law
27 addressing student behavior related to the classroom, extracurricular
28 activities, school transportation, and other time on school property; and

29 (v) Instruction on classroom safety interventions pursuant to
30 section 4 of this act, on classroom safety removals pursuant to section 5
31 of this act, and on the school district's policies under such sections.

1 (2)(a) On or before July 1, 2023, and on or before July 1 of each
2 year thereafter, each school district shall submit a classroom safety
3 intervention and behavioral awareness training report to the state school
4 security director. Such report shall include the school district
5 classroom safety intervention and behavioral awareness training plan and
6 summarize how such plan fulfills the requirements of this section.

7 (b) On or before December 31, 2023, and each December 31 thereafter,
8 the state school security director shall submit a report electronically
9 to the Education Committee of the Legislature summarizing the classroom
10 safety intervention and behavioral awareness training reports received
11 from school districts, the various trainings provided across the state,
12 and a financial report of funding received and expended in accordance
13 with the Classroom Safety Intervention and Behavioral Awareness Training
14 Act.

15 (3) Funding for the classroom safety intervention and behavioral
16 awareness training for teacher support system required pursuant to this
17 section shall be provided from the Behavioral Training Cash Fund.

18 Sec. 3. (1) Each school district shall designate one or more school
19 employees to serve as a behavioral awareness point of contact for each
20 school building or other division as determined by such school district.
21 Each behavioral awareness point of contact shall be trained pursuant to
22 section 2 of this act and shall have knowledge of community mental and
23 behavioral health and counseling service providers and other related
24 resources that are available for the students and families in such school
25 district. Each school district shall indicate on its website each
26 behavioral awareness point of contact for such school district and in any
27 school directory for the school that a point of contact serves.

28 (2) Each school district shall maintain or have access to a registry
29 of community mental and behavioral health and counseling service
30 providers and other related resources. The registry shall also include
31 service providers accessible to families and individuals at places and

1 times other than the school building and school day.

2 (3) Each behavioral awareness point of contact shall coordinate
3 access to community mental and behavioral health and counseling service
4 providers for students. Except as provided in section 43-2101, school
5 personnel shall provide prior written notification to a parent or
6 guardian of a student if the school personnel intended to provide the
7 student with information for a community mental or behavioral health or
8 counseling service provider unless the provision of such information
9 involves law enforcement or child protective services.

10 Sec. 4. (1) For purposes of this section:

11 (a) Classroom safety intervention means a physical intervention
12 intended to hold a student immobile or limit a student's movement, where
13 body contact is the only source of physical restraint, and where
14 immobilization is used to effectively gain control of a student to
15 protect such student or other individual from physical injury as an
16 immediate response to an emergency safety situation. Classroom safety
17 intervention does not include physical contact that (i) helps a student
18 respond or complete a task, (ii) assists a student without restricting
19 the student's movement, (iii) is needed to administer an authorized
20 health-related service or procedure, or (iv) is needed to physically
21 escort a student when the student does not resist or the student's
22 resistance is minimal;

23 (b) Emergency safety situation means a situation where immediate
24 intervention is needed to protect a student or other individual from
25 imminent physical injury. Emergency safety situation does not mean a
26 situation where: A student does not respond to a task or request and
27 instead places his or her head on a desk or hides under a desk or table;
28 a student does not respond to a staff person's request unless failing to
29 respond would result in physical injury to the student or another
30 individual; or an emergency incident has already occurred and no threat
31 of physical injury currently exists;

1 (c) Imminent physical injury means physical injury to a student or
2 others that is occurring currently or highly likely to occur in the
3 immediate future as the result of the student's behavior;

4 (d) Prone restraint means restraint in which a student is placed on
5 the ground in a face-down position. Prone restraint shall be limited to
6 situations of imminent physical injury that could result in serious
7 physical injury; and

8 (e) Serious physical injury means death, disfigurement, or
9 protracted loss or impairment of the function of a bodily member or organ
10 of a student or others.

11 (2) Beginning with school year 2022-23, administrative, teaching,
12 and any other school personnel may utilize a classroom safety
13 intervention as provided in subsection (5) of this section.

14 (3) Classroom safety intervention may occur on all school property,
15 a school bus, and at school-sanctioned events.

16 (4) Efforts to de-escalate the situation shall occur prior to a
17 classroom safety intervention. A classroom safety intervention shall be
18 performed in a manner that is safe and proportionate and appropriate to:
19 The severity of the behavior; the student's chronological and
20 developmental age, size, sex, and physical, medical, and psychiatric
21 condition, chemical dependency, and whether the student is under the
22 influence of drugs or alcohol, if known; and the student's personal
23 history, including any history of physical or sexual abuse, if known.

24 (5) A classroom safety intervention does not include any physical
25 action that is intended to cause bodily pain or to punish a student. A
26 classroom safety intervention shall be used only:

27 (a) To protect persons from harm or secure property if such action
28 may protect students, school personnel, or other persons from imminent
29 physical injury;

30 (b) To ensure the safety of the student or others during the use of
31 a classroom safety intervention;

1 (c) Until the emergency safety situation has ceased and the
2 student's safety and the safety of others can be ensured; and

3 (d) With the least amount of force necessary to protect the student
4 or others from imminent physical injury.

5 (6) Each school district shall adopt a policy regarding the use of a
6 classroom safety intervention pursuant to this section that adheres to
7 the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400
8 et seq., and section 504 of the Rehabilitation Act of 1973, 29 U.S.C.
9 794. Such policy shall include training requirements relating to the use
10 of a classroom safety intervention. The State Department of Education
11 shall provide a guidance document that school districts may consider when
12 adopting such policy.

13 (7) Following the use of a classroom safety intervention, a school
14 administrator shall, as soon as reasonable, contact the parent or
15 guardian of the student and notify such parent or guardian of the use of
16 a classroom safety intervention.

17 (8)(a) No administrative, teaching, or other school personnel shall
18 be subject to professional or administrative discipline for applying
19 classroom safety intervention when necessary caused by an act by such
20 administrative, teaching, or other school personnel relating to the use
21 of a classroom safety intervention pursuant to this section unless harm
22 was caused by (i) gross negligence, (ii) a conscious, flagrant
23 indifference to the rights or safety of the individual who was harmed, or
24 (iii) willful, criminal, or reckless misconduct, including misconduct (A)
25 that constitutes a crime of violence, as defined by 18 U.S.C. 16, as such
26 section existed on January 1, 2022, (B) that involves a sexual offense
27 listed in subdivision (1)(a)(i) of section 29-4003, (C) for which the
28 administrative, teaching, or other school personnel has been found to
29 have violated a federal or state civil rights law, or (D) that occurred
30 while the administrative, teaching, or other school personnel was under
31 the influence of alcoholic liquor or drugs.

1 (b) Nothing in this section shall be construed to limit any defense
2 that may be available under any other provision of law, including, but
3 not limited to, any defense relating to self-protection or the protection
4 of others.

5 Sec. 5. (1) For purposes of this section, disruptive behavior means
6 conduct of a student that is so unruly, disruptive, or abusive that it
7 seriously interferes with a teacher's or school administrator's ability
8 to communicate with the students in a classroom, with a student's ability
9 to learn, or with the operation of a school or school-related activity.

10 (2) For school year 2022-23 and each school year thereafter, each
11 school district, with input from administrators, teachers, and other
12 school employees, shall create and adopt a classroom safety removal
13 policy including training requirements. The State Department of Education
14 shall provide a guidance document that a school district may consider
15 when adopting such policy. Each classroom safety removal policy shall:

16 (a) Describe when and how a teacher may request that a school
17 administrator remove from a classroom a student that is engaged in
18 disruptive behavior and when such student may be returned to the
19 classroom;

20 (b) Define appropriate behavioral interventions or supports that are
21 required to be implemented to aid a student's successful return to a
22 classroom; and

23 (c) Require the student to return to the classroom as soon as
24 possible, when it is deemed safe and in the best interest of the student.

25 (3) Except as prohibited by the federal Individuals with
26 Disabilities Education Act, 20 U.S.C. 1400 et seq., related federal
27 regulations, or any applicable individualized education plan established
28 pursuant to such federal act, or by section 504 of the federal
29 Rehabilitation Act of 1973, 29 U.S.C. 794, related federal regulations,
30 or any applicable plan established pursuant to such federal act, if a
31 teacher has requested that a school administrator remove a student from a

1 classroom in compliance with the school district's classroom safety
2 removal policy, a school administrator shall temporarily remove such
3 student from the classroom.

4 (4) No school personnel shall be subject to administrative
5 discipline for removing a student from a classroom or requesting such
6 removal if such school personnel followed the school district's classroom
7 safety removal policy.

8 Sec. 6. (1) The Behavioral Training Cash Fund is created. The fund
9 shall be administered by the State Department of Education and shall
10 consist of money received pursuant to section 9-812. The department shall
11 distribute the fund as provided in this section. Any money in the fund
12 available for investment shall be invested by the state investment
13 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
14 State Funds Investment Act.

15 (2) For school fiscal year 2022-23 and each school fiscal year
16 thereafter, using data from the fall personnel report filed pursuant to
17 section 79-804 for the immediately preceding school fiscal year, each
18 school district or voluntarily participating approved or accredited
19 private, denominational, or parochial school shall receive behavioral
20 training funding paid from the Behavioral Training Cash Fund for each
21 school within such school district that has any grade above kindergarten,
22 including, but not limited to, a special education school, an alternative
23 school, or a focus school.

24 (3) Except as otherwise provided in subsection (7) of this section,
25 the behavioral training funding for each school described in subsection
26 (2) of this section shall equal the base training reimbursement plus any
27 additional training reimbursement units calculated pursuant to this
28 section.

29 (4) The base training reimbursement shall be two thousand dollars.

30 (5) Each school that has a full-time teacher equivalent greater than
31 or equal to eighty teachers shall qualify for additional training

1 reimbursement units as follows:

2 (a) Three additional training reimbursement units for each school
3 with a full-time teacher equivalent greater than or equal to two hundred
4 forty teachers;

5 (b) Two additional training reimbursement units for each school with
6 a full-time teacher equivalent greater than or equal to one hundred sixty
7 teachers but less than two hundred forty teachers; and

8 (c) One additional training reimbursement unit for each school with
9 a full-time teacher equivalent greater than or equal to eighty teachers
10 but less than one hundred sixty teachers.

11 (6) The amount to be paid for each additional training reimbursement
12 unit for each school fiscal year shall equal the ratio of (a) the
13 difference of the amount available for distribution in the Behavioral
14 Training Cash Fund on August 10 immediately preceding such school fiscal
15 year minus the total of the base training reimbursements for all school
16 districts divided by (b) the total additional training reimbursement
17 units for all school districts.

18 (7) For any school fiscal year when the amount available for
19 distribution in the Behavioral Training Cash Fund on August 10
20 immediately preceding such school fiscal year is less than the total of
21 the base training reimbursements for all schools as calculated pursuant
22 to subsection (4) of this section, the base training reimbursements shall
23 be reduced proportionally such that the total of the base training
24 reimbursements for all schools equals the amount available for
25 distribution. Payment shall not be made for any additional training
26 reimbursement units pursuant to subsections (5) and (6) of this section
27 for such school fiscal year.

28 (8) For school fiscal year 2022-23, each school district shall
29 qualify for behavioral training funding. For school fiscal year 2023-24
30 and each school fiscal year thereafter, each school district in
31 compliance with the classroom safety intervention and behavioral

1 awareness training requirements provided in section 2 of this act, as
2 certified by the state school security director, shall be eligible for
3 behavioral training funding.

4 (9) Funds received from the Behavioral Training Cash Fund pursuant
5 to this section shall not be included in the calculation of formula
6 resources pursuant to section 79-1017.01.

7 (10) Behavioral training funding shall be distributed directly to
8 school districts from the Behavioral Training Cash Fund in the same
9 manner as and in conjunction with funds distributed pursuant to section
10 79-1022.

11 Sec. 7. Section 9-812, Revised Statutes Supplement, 2021, is amended
12 to read:

13 9-812 (1) All money received from the operation of lottery games
14 conducted pursuant to the State Lottery Act in Nebraska shall be credited
15 to the State Lottery Operation Trust Fund, which fund is hereby created.
16 All payments of the costs of establishing and maintaining the lottery
17 games shall be made from the State Lottery Operation Cash Fund. In
18 accordance with legislative appropriations, money for payments for
19 expenses of the division shall be transferred from the State Lottery
20 Operation Trust Fund to the State Lottery Operation Cash Fund, which fund
21 is hereby created. All money necessary for the payment of lottery prizes
22 shall be transferred from the State Lottery Operation Trust Fund to the
23 State Lottery Prize Trust Fund, which fund is hereby created. The amount
24 used for the payment of lottery prizes shall not be less than forty
25 percent of the dollar amount of the lottery tickets which have been sold.

26 (2) A portion of the dollar amount of the lottery tickets which have
27 been sold on an annualized basis shall be transferred from the State
28 Lottery Operation Trust Fund to the Education Innovation Fund, the
29 Nebraska Opportunity Grant Fund, the Nebraska Education Improvement Fund,
30 the Nebraska Environmental Trust Fund, the Nebraska State Fair Board, and
31 the Compulsive Gamblers Assistance Fund as provided in subsection (3) of

1 this section. The dollar amount transferred pursuant to this subsection
2 shall equal the greater of (a) the dollar amount transferred to the funds
3 in fiscal year 2002-03 or (b) any amount which constitutes at least
4 twenty-two percent and no more than twenty-five percent of the dollar
5 amount of the lottery tickets which have been sold on an annualized
6 basis. To the extent that funds are available, the Tax Commissioner and
7 director may authorize a transfer exceeding twenty-five percent of the
8 dollar amount of the lottery tickets sold on an annualized basis.

9 (3) Of the money available to be transferred to the Education
10 Innovation Fund, the Nebraska Opportunity Grant Fund, the Nebraska
11 Education Improvement Fund, the Nebraska Environmental Trust Fund, the
12 Nebraska State Fair Board, and the Compulsive Gamblers Assistance Fund:

13 (a) The first five hundred thousand dollars shall be transferred to
14 the Compulsive Gamblers Assistance Fund to be used as provided in section
15 9-1006;

16 (b) Beginning July 1, 2016, forty-four and one-half percent of the
17 money remaining after the payment of prizes and operating expenses and
18 the initial transfer to the Compulsive Gamblers Assistance Fund shall be
19 transferred to the Nebraska Education Improvement Fund;

20 (c) Forty-four and one-half percent of the money remaining after the
21 payment of prizes and operating expenses and the initial transfer to the
22 Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska
23 Environmental Trust Fund to be used as provided in the Nebraska
24 Environmental Trust Act;

25 (d) Ten percent of the money remaining after the payment of prizes
26 and operating expenses and the initial transfer to the Compulsive
27 Gamblers Assistance Fund shall be transferred to the Nebraska State Fair
28 Board if the most populous city within the county in which the fair is
29 located provides matching funds equivalent to ten percent of the funds
30 available for transfer. Such matching funds may be obtained from the city
31 and any other private or public entity, except that no portion of such

1 matching funds shall be provided by the state. If the Nebraska State Fair
2 ceases operations, ten percent of the money remaining after the payment
3 of prizes and operating expenses and the initial transfer to the
4 Compulsive Gamblers Assistance Fund shall be transferred to the General
5 Fund; and

6 (e) One percent of the money remaining after the payment of prizes
7 and operating expenses and the initial transfer to the Compulsive
8 Gamblers Assistance Fund shall be transferred to the Compulsive Gamblers
9 Assistance Fund to be used as provided in section 9-1006.

10 (4) The Nebraska Education Improvement Fund is created. The fund
11 shall consist of money transferred pursuant to subsection (3) of this
12 section, money transferred pursuant to section 85-1920, and any other
13 funds appropriated by the Legislature. The fund shall be allocated, after
14 actual and necessary administrative expenses, as provided in this section
15 for fiscal years 2016-17 through 2023-24. A portion of each allocation
16 may be retained by the agency to which the allocation is made or the
17 agency administering the fund to which the allocation is made for actual
18 and necessary expenses incurred by such agency for administration,
19 evaluation, and technical assistance related to the purposes of the
20 allocation, except that no amount of the allocation to the Nebraska
21 Opportunity Grant Fund may be used for such purposes. On or before
22 December 31, 2022, the Education Committee of the Legislature shall
23 electronically submit recommendations to the Clerk of the Legislature
24 regarding how the fund should be allocated to best advance the
25 educational priorities of the state for the five-year period beginning
26 with fiscal year 2024-25. For fiscal year 2016-17, an amount equal to ten
27 percent of the revenue allocated to the Education Innovation Fund and to
28 the Nebraska Opportunity Grant Fund for fiscal year 2015-16 shall be
29 retained in the Nebraska Education Improvement Fund. For fiscal years
30 2017-18 through ~~2021-22~~ 2023-24, an amount equal to ten percent of the
31 revenue received by the Nebraska Education Improvement Fund in the prior

1 fiscal year shall be retained in the fund at all times plus any interest
2 earned during the current fiscal year. The State Treasurer shall transfer
3 the balance of the Nebraska Education Improvement Fund on July 26, 2022,
4 to the Behavioral Training Cash Fund. For fiscal years 2022-23 through
5 2028-29, an amount equal to ten percent of the revenue received by the
6 Nebraska Education Improvement Fund shall be allocated to the Behavioral
7 Training Cash Fund. For fiscal years 2016-17 through 2023-24, the
8 remainder of the Nebraska Education Improvement Fund fund shall be
9 allocated as follows:

10 (a) One percent of the allocated funds to the Expanded Learning
11 Opportunity Grant Fund to carry out the Expanded Learning Opportunity
12 Grant Program Act;

13 (b) Seventeen percent of the allocated funds to the Department of
14 Education Innovative Grant Fund to be used for competitive innovation
15 grants pursuant to section 79-1054;

16 (c) Nine percent of the allocated funds to the Community College Gap
17 Assistance Program Fund to carry out the community college gap assistance
18 program;

19 (d) Eight percent of the allocated funds to the Excellence in
20 Teaching Cash Fund to carry out the Excellence in Teaching Act;

21 (e) Sixty-two percent of the allocated funds to the Nebraska
22 Opportunity Grant Fund to carry out the Nebraska Opportunity Grant Act in
23 conjunction with appropriations from the General Fund; and

24 (f) Three percent of the allocated funds to fund distance education
25 incentives pursuant to section 79-1337.

26 (5)(a) On or before September 20, 2022, and on or before each
27 September 20 thereafter, (i) any department or agency receiving a
28 transfer or acting as the administrator for a fund receiving a transfer
29 pursuant to subsection (4) of this section, (ii) any recipient or
30 subsequent recipient of money from any such fund, and (iii) any service
31 contractor responsible for managing any portion of any such fund or any

1 money disbursed from any such fund on behalf of any entity shall prepare
2 and submit an annual report to the Auditor of Public Accounts in a manner
3 prescribed by the auditor for the immediately preceding July 1 through
4 June 30 fiscal year detailing information regarding the use of such fund
5 or such money.

6 (b) The Auditor of Public Accounts shall annually compile a summary
7 of the annual reports received pursuant to subdivision (5)(a) of this
8 section, any audits related to transfers pursuant to subsection (4) of
9 this section conducted by the Auditor of Public Accounts, and any
10 findings or recommendations related to such transfers into a consolidated
11 annual report and shall submit such consolidated annual report
12 electronically to the Legislature on or before January 1, 2023, and on or
13 before each January 1 thereafter.

14 (c) For purposes of this subsection, recipient, subsequent
15 recipient, or service contractor means a nonprofit entity that expends
16 funds transferred pursuant to subsection (4) of this section to carry out
17 a state program or function, but does not include an individual who is a
18 direct beneficiary of such a program or function.

19 (6) Any money in the State Lottery Operation Trust Fund, the State
20 Lottery Operation Cash Fund, the State Lottery Prize Trust Fund, or the
21 Nebraska Education Improvement Fund available for investment shall be
22 invested by the state investment officer pursuant to the Nebraska Capital
23 Expansion Act and the Nebraska State Funds Investment Act.

24 (7) Unclaimed prize money on a winning lottery ticket shall be
25 retained for a period of time prescribed by rules and regulations. If no
26 claim is made within such period, the prize money shall be used at the
27 discretion of the Tax Commissioner for any of the purposes prescribed in
28 this section.

29 Sec. 8. Original section 9-812, Revised Statutes Supplement, 2021,
30 is repealed.

31 Sec. 9. Since an emergency exists, this act takes effect when

1 passed and approved according to law.