

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 575**

Introduced by Price, 3.

Read first time January 19, 2011

Committee: Education

A BILL

- 1 FOR AN ACT relating to education; to adopt the Military Children
- 2 Educational Opportunity Act; and to provide severability.
- 3 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 10 of this act shall be known  
2 and may be cited as the Military Children Educational Opportunity  
3 Act.

4           Sec. 2. It is the purpose of the Military Children  
5 Educational Opportunity Act to remove barriers to educational success  
6 imposed on children of military families because of frequent moves  
7 and deployment of their parents by:

8                   (1) Facilitating the timely enrollment of children of  
9 military families and ensuring that they are not placed at a  
10 disadvantage due to difficulty in the transfer of education records  
11 from the previous school district or variations in entrance or age  
12 requirements;

13                   (2) Facilitating the student placement process through  
14 which children of military families are not disadvantaged by  
15 variations in attendance requirements, scheduling, sequencing,  
16 grading, course content, or assessment;

17                   (3) Facilitating the qualification and eligibility for  
18 enrollment, educational programs, and participation in  
19 extracurricular academic, athletic, and social activities;

20                   (4) Facilitating the on-time graduation of children of  
21 military families;

22                   (5) Providing for the uniform collection and sharing of  
23 information between and among schools and military families under the  
24 act; and

25                   (6) Promoting flexibility and cooperation between the

1 educational system, parents, and the student in order to achieve  
2 educational success for the student.

3           Sec. 3. For purposes of the Military Children Educational  
4 Opportunity Act:

5           (1) Active duty means full-time duty status in the active  
6 uniformed service of the United States, including members of the  
7 National Guard and Reserve on active duty orders pursuant to 10  
8 U.S.C. 1209 and 1211;

9           (2) Children of military families means school-aged  
10 children enrolled in kindergarten through twelfth grade in the  
11 household of an active duty member;

12           (3) Deployment means the period one month prior to the  
13 service members' departure from their home station on military orders  
14 through six months after return to their home station;

15           (4) Education records or educational records means  
16 official records, files, and data directly related to a student and  
17 maintained by the school or local education agency, including, but  
18 not limited to, records encompassing all the material kept in the  
19 student's cumulative folder such as general identifying data, records  
20 of attendance and of academic work completed, records of achievement,  
21 results of evaluative tests, health data, disciplinary status, test  
22 protocols, and individualized education programs;

23           (5) Extracurricular activities means a voluntary activity  
24 sponsored by the school or local education agency or an organization  
25 sanctioned by the local education agency. Extracurricular activities

1 includes, but is not limited to, preparation for and involvement in  
2 public performances, contests, athletic competitions, demonstrations,  
3 displays, and club activities;

4 (6) Local education agency means a school district as  
5 defined in section 79-101;

6 (7) Military installation means a base, camp, post,  
7 station, yard, center, homeport facility for any ship, or other  
8 activity under the jurisdiction of the United States Department of  
9 Defense, including any leased facility, which is located within any  
10 of the several states, the District of Columbia, the Commonwealth of  
11 Puerto Rico, the United States Virgin Islands, Guam, American Samoa,  
12 the Northern Mariana Islands, and any other United States territory.  
13 Such term does not include any facility used primarily for civil  
14 works, rivers and harbors projects, or flood control projects;

15 (8) State means a state of the United States, the  
16 District of Columbia, the Commonwealth of Puerto Rico, the United  
17 States Virgin Islands, Guam, American Samoa, the Northern Mariana  
18 Islands, and any other United States territory;

19 (9) Student means the child of a military family for whom  
20 the local education agency receives public funding and who is  
21 formally enrolled in kindergarten through twelfth grade;

22 (10) Transition means the formal and physical process of  
23 transferring from school to school or the period of time in which a  
24 student moves from one school to another school;

25 (11) Uniformed services means the Army, Navy, Air Force,

1 Marine Corps, and Coast Guard, as well as the Commissioned Corps of  
2 the National Oceanic and Atmospheric Administration and Public Health  
3 Service; and

4 (12) Veteran means a person who served in the uniformed  
5 services and who was discharged or released therefrom under  
6 conditions other than dishonorable.

7 Sec. 4. (1) Except as provided in subsection (2) of this  
8 section, the Military Children Educational Opportunity Act shall  
9 apply to the children of:

10 (a) Active duty members of the uniformed services,  
11 including members of the National Guard and Reserve on active duty  
12 orders pursuant to 10 U.S.C. 1209 and 1211;

13 (b) Members or veterans of the uniformed services who are  
14 severely injured and medically discharged or retired for a period of  
15 one year after medical discharge or retirement; and

16 (c) Members of the uniformed services who die on active  
17 duty or as a result of injuries sustained on active duty for a period  
18 of one year after death.

19 (2) The act shall only apply to local education agencies.

20 (3) The act shall not apply to the children of:

21 (a) Inactive members of the National Guard and military  
22 reserves;

23 (b) Members of the uniformed services now retired, except  
24 as provided in subsection (1) of this section;

25 (c) Veterans of the uniformed services, except as

1 provided in subsection (1) of this section; and

2 (d) Other United States Department of Defense personnel  
3 and other federal agency civilian and contract employees not defined  
4 as active duty members of the uniformed services.

5 Sec. 5. (1) If official education records cannot be  
6 released to the parents for the purpose of transfer from a school in  
7 a state other than Nebraska, the school in Nebraska shall request a  
8 complete set of unofficial educational records containing uniform  
9 information. Upon receipt of the unofficial education records by the  
10 school in Nebraska, the school shall enroll and appropriately place  
11 the student based on the information provided in the unofficial  
12 records pending validation by the official records.

13 (2) Simultaneous with the enrollment and conditional  
14 placement of the student, the school in Nebraska shall request the  
15 student's official education record from the school from which the  
16 student transferred.

17 (3) A school in Nebraska shall give thirty days from the  
18 date of enrollment for students to obtain any immunizations required  
19 by the State of Nebraska. For a series of immunizations, initial  
20 vaccinations shall be obtained within thirty days.

21 (4) Students shall be allowed to continue their  
22 enrollment at grade level in the school in Nebraska commensurate with  
23 their grade level, including kindergarten, from a local education  
24 agency in the state from which the student is transferring at the  
25 time of transition, regardless of age. A student that has

1 satisfactorily completed the prerequisite grade level in the local  
2 education agency in the state from which the student is transferring  
3 shall be eligible for enrollment in the next highest grade level in  
4 the school in Nebraska, regardless of age. A student transferring  
5 after the start of the school year shall enter the school in Nebraska  
6 on their validated level from a school in the state from which the  
7 student is transferring.

8           Sec. 6. (1) If a student transfers before or during the  
9 school year, the school in Nebraska shall initially honor placement  
10 of the student in educational courses based on the student's  
11 enrollment in the state from which the student is transferring or  
12 educational assessments conducted at the school in the state from  
13 which the student is transferring if the courses are offered. Course  
14 placement includes, but is not limited to, honors, international  
15 baccalaureate, advanced placement, vocational, technical, and career  
16 pathways courses. Continuing the student's academic program from the  
17 previous school and promoting placement in academically and career  
18 challenging courses should be paramount when considering placement.  
19 This subsection does not preclude the school in Nebraska from  
20 performing subsequent evaluations to ensure appropriate placement and  
21 continued enrollment of the student in the courses.

22           (2) The school in Nebraska shall initially honor  
23 placement of the student in educational programs based on current  
24 educational assessments conducted at the school in the state from  
25 which the student is transferring or participation or placement in

1 like programs in such state. Such programs include, but are not  
2 limited to, gifted and talented programs and English as a second  
3 language. This subsection does not preclude the school in Nebraska  
4 from performing subsequent evaluations to ensure appropriate  
5 placement of the student.

6 (3)(a) In compliance with the requirements of the federal  
7 Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.,  
8 the school in Nebraska shall initially provide comparable services to  
9 a student with disabilities based on his or her current  
10 individualized education program.

11 (b) In compliance with the requirements of section 504 of  
12 the Rehabilitation Act of 1973, 29 U.S.C. 794, and with Title II of  
13 the Americans with Disabilities Act of 1990, 42 U.S.C. 12131 to  
14 12165, the school in Nebraska shall make reasonable accommodations  
15 and modifications to address the needs of incoming students with  
16 disabilities, subject to an existing 504 or Title II Plan, to provide  
17 the student with equal access to education. This subdivision does not  
18 preclude the school in Nebraska from performing subsequent  
19 evaluations to ensure appropriate placement of the student.

20 (4) Local education agency administrative officials shall  
21 have flexibility in waiving course or program prerequisites or other  
22 preconditions for placement in courses or programs offered under the  
23 jurisdiction of the local education agency.

24 (5) A student whose parent or legal guardian is an active  
25 duty member of the uniformed services and has been called to duty



1 for, is on leave from, or immediately returned from deployment to a  
2 combat zone or combat support posting, shall be granted additional  
3 excused absences at the discretion of the local education agency  
4 superintendent to visit with his or her parent or legal guardian  
5 relative to such leave or deployment of the parent or guardian.

6 Sec. 7. (1) Special power of attorney, relative to the  
7 guardianship of a child of a military family and executed under  
8 applicable law, shall be sufficient for the purposes of enrollment  
9 and all other actions requiring parental participation and consent.

10 (2) A local education agency shall be prohibited from  
11 charging local tuition to a transitioning military child placed in  
12 the care of a noncustodial parent or other person standing in loco  
13 parentis who lives in a jurisdiction other than that of the custodial  
14 parent.

15 (3) A transitioning military child placed in the care of  
16 a noncustodial parent or other person standing in loco parentis who  
17 lives in a jurisdiction other than that of the custodial parent may  
18 continue to attend the school in which he or she was enrolled while  
19 residing with the custodial parent.

20 (4) A local education agency in conjunction with an  
21 applicable nonprofit organization shall facilitate the opportunity  
22 for transitioning military childrens' inclusion in extracurricular  
23 activities, regardless of application deadlines, to the extent they  
24 are otherwise qualified.

25 Sec. 8. In order to facilitate the on-time graduation of

1 children of military families, local education agencies shall  
2 incorporate the following procedures:

3 (1) Local education agency administrative officials shall  
4 waive specific courses required for graduation if similar course work  
5 has been satisfactorily completed in another local education agency  
6 or shall provide reasonable justification for denial. If a waiver is  
7 not granted to a student who would qualify to graduate from the  
8 school the state from which the student is transferring, the local  
9 education agency shall provide an alternative means of acquiring  
10 required coursework so that graduation may occur on time;

11 (2) States shall accept exit or end-of-course exams  
12 required for graduation from the state from which the student is  
13 transferring, national norm-referenced achievement tests, or  
14 alternative testing, in lieu of testing requirements for graduation  
15 in Nebraska. If such alternatives cannot be accommodated by Nebraska  
16 for a student transferring in his or her senior year, then  
17 subdivision (3) of this section shall apply; and

18 (3) If a military student transferring at the beginning  
19 or during his or her senior year is ineligible to graduate from the  
20 local education agency in Nebraska after all alternatives have been  
21 considered, the local education agency in Nebraska shall request a  
22 diploma from the local education agency in the state from which the  
23 student is transferring if the student meets the graduation  
24 requirements of such local education agency. If the request is denied  
25 by the agency in the state from which the student is transferring,

1 the agency in Nebraska shall use best efforts to facilitate the on-  
2 time graduation of the student in accordance with subdivisions (1)  
3 and (2) of this section.

4           Sec. 9. The State Department of Education shall oversee  
5 and provide coordination for the state's compliance with the Military  
6 Children Educational Opportunity Act.

7           Sec. 10. A local education agency which fails to comply  
8 with the Military Children Educational Opportunity Act shall lose its  
9 accreditation status.

10           Sec. 11. If any section in this act or any part of any  
11 section is declared invalid or unconstitutional, the declaration  
12 shall not affect the validity or constitutionality of the remaining  
13 portions.