



NEBRASKA DEPARTMENT OF EDUCATION

TO: Roger Breed, Ed.D.
Commissioner of Education

FROM: FREIDA LANGE, ADMINISTRATOR

SUBJECT: PROPOSED REVISIONS TO RULE 10 REQUIRING THE RECITATION OF THE PLEDGE OF ALLEGIANCE

Proposed Board Action:

Grant the Commissioner authority to approve a hearing draft of Rule 10 to add requirements relating to the recitation of the Pledge of Allegiance, appoint a hearing official, and set a date and time for a hearing.

Background Information:

The attached proposed revision to Rule 10 is based on the New Hampshire School Patriot Act, with the addition of a limitation of the recitation of the Pledge to grades K-8. In 2010, the First Circuit Court of Appeals held that the New Hampshire Act and the voluntary, teacher-led recitation of the Pledge by New Hampshire's public school students do not violate the Establishment Clause, the Free Exercise Clause, or the Equal Protection Clause of the U.S. Constitution. (*Freedom From Religion Foundation v. Hanover School Dist.*, 626 F.3d 1, 262 Ed. Law Rep. 106, C.A.1 (N.H.), 2010).

Also attached is LB 990, which was introduced this legislative session, and Senator Fulton's Statement of Intent. LB 990 remains in Committee.

Estimated Cost:

N/A

Supporting Documentation Included:

Proposed revised language for Rule 10, Section 003.12, Introducer's Statement of Intent LB 990 and LB 990.

For Additional Information on this item:

Call Freida Lange (402) 471-2444 or email freida.lange@nebraska.gov

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 10 - REGULATIONS AND PROCEDURES FOR THE ACCREDITATION
OF SCHOOLS

003.12 Each public school district shall authorize a period of time during the school day for the recitation of the Pledge of Allegiance in grades kindergarten through eight. Pupil participation in the recitation of the Pledge of Allegiance shall be voluntary. Pupils not participating in the recitation of the Pledge shall be permitted to silently stand or remain seated but shall be required to respect the rights of those pupils electing to participate.

One Hundred Second Legislature - Second Session - 2012

Introducer's Statement of Intent

LB990

Chairperson: Senator Greg Adams

Committee: Education

Date of Hearing: February 07, 2012

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB990 amends Neb. Rev. Stat. 79-707 to require the display of the flags of the United States and the State of Nebraska in each classroom of the public schools of this state at the beginning of the 2012 - 2013 school year. The bill also requires the leading of all pupils in a group recitation of the Pledge of Allegiance to the flag of the United States during the first class of each day that school is open and in session. LB990 does not place any participatory requirement on any pupil, nor does it necessarily require any instructor to lead such a group recitation.

Principal Introducer: _____

Senator Tony Fulton

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 990

Introduced by Fulton, 29; Bloomfield, 17; Janssen, 15; Krist, 10;
Lambert, 2; Louden, 49; Mello, 5; Nelson, 6;
Nordquist, 7; Price, 3; Wallman, 30.

Read first time January 12, 2012

Committee: Education

A BILL

- 1 FOR AN ACT relating to schools; to amend section 79-707, Reissue
- 2 Revised Statutes of Nebraska; to change provisions
- 3 relating to flags; to provide for recitation of a pledge;
- 4 and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-707, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-707 (1) The flags of the United States of America and
4 of the State of Nebraska shall be prominently displayed on the school
5 grounds of and, beginning August 13, 2012, in each classroom of every
6 public school in the state on each day that such school is in
7 session, in accordance with the standards prescribed for the display
8 of the flag of the United States of America. For the purposes of this
9 section and section 79-708, public school shall mean all institutions
10 means an institution of learning supported in whole or in part by
11 public funds, including those providing a postsecondary education.
12 educational institution.

13 (2) On and after August 13, 2012, all pupils enrolled in
14 a school district shall be led in a group recitation of the Pledge of
15 Allegiance to the flag of the United States during the first class of
16 each day that school is open and in session.

17 Sec. 2. Original section 79-707, Reissue Revised Statutes
18 of Nebraska, is repealed.

003.12 Each public school district shall require each such district's schools to establish~~authorize~~ a period of time during the school day, when a majority of pupils is scheduled to be present, during which pupils will be led in~~for~~ the recitation of the Pledge of Allegiance in the presence of the flag of the United States of America, in grades kindergarten through ~~twelve~~eight. Pupil participation in the recitation of the Pledge of Allegiance shall be voluntary. Pupils not participating in the recitation of the Pledge shall be permitted to silently stand or remain seated but shall be required to respect the rights of those pupils electing to participate.

[CLEAN VIEW WITH REVISIONS ACCEPTED:]

003.12 Each public school district shall require each such district's schools to establish a period of time during the school day, when a majority of pupils is scheduled to be present, during which pupils will be led in the recitation of the Pledge of Allegiance in the presence of the flag of the United States of America, in grades kindergarten through twelve. Pupil participation in the recitation of the Pledge of Allegiance shall be voluntary. Pupils not participating in the recitation of the Pledge shall be permitted to silently stand or remain seated but shall be required to respect the rights of those pupils electing to participate.