

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 446
Final Reading

Introduced by Adams, 24.

Read first time January 14, 2011

Committee: Education

A BILL

1 FOR AN ACT relating to educational service units; to amend section
2 79-1225, Reissue Revised Statutes of Nebraska, and
3 sections 79-1217, 79-1241.03, and 79-1242, Revised
4 Statutes Cumulative Supplement, 2010; to provide for
5 participation in statewide projects as prescribed; to
6 change a tax levy limitation; to change provisions
7 relating to distribution and use of funds; to harmonize
8 provisions; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1217, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 79-1217 (1) All educational service units shall be
4 governed by a board to be known as the Board of Educational Service
5 Unit No. Until the first Thursday after the first Tuesday in
6 January 2009, the educational service unit board, except the board of
7 an educational service unit with only one member school district,
8 shall be composed of one member from each county and four members at
9 large, all of whom shall reside within the geographical boundaries of
10 the educational service unit, but no more than two of the members at
11 large shall be appointed or elected from the same county unless any
12 one county within the educational service unit has a population in
13 excess of one hundred fifty thousand inhabitants or the educational
14 service unit consists of only one county. Beginning on the first
15 Thursday after the first Tuesday in January 2009, the educational
16 service unit board, except the board of an educational service unit
17 with only one member school district, shall be composed of one member
18 elected to represent each election district established pursuant to
19 section 79-1217.01. Successors to the members initially appointed
20 pursuant to section 79-1212 shall be elected pursuant to section
21 32-515.

22 (2) Vacancies in office shall occur as set forth in
23 section 32-560, except as otherwise provided in section 79-1212
24 regarding the requirement to live in the district represented, or in
25 the case of absences, unless excused by a majority of the remaining

1 members of the board, when a member is absent from the geographical
2 boundaries of the educational service unit for a continuous period of
3 sixty days at one time or from more than two consecutive regular
4 meetings of the board. Whenever any vacancy occurs on the board, the
5 remaining members of such board shall appoint an individual residing
6 within the election district of the educational service unit for
7 which the vacancy exists and meeting the qualifications for the
8 office to fill such vacancy for the balance of the unexpired term.

9 (3) Members of the board shall receive no compensation
10 for their services but shall be reimbursed for the actual and
11 necessary expenses incurred in the performance of their duties under
12 the Educational Service Units Act as provided in sections 81-1174 to
13 81-1177.

14 (4) Except as provided in subsection (5) of this section,
15 any joint school district located in two or more counties shall be
16 considered a part of the educational service unit in which the
17 greater number of school-age children of such joint school district
18 reside.

19 (5) Any Class I district which is part of a Class VI
20 district shall be considered a part of the educational service unit
21 of which the Class VI district is a member. If the Class VI district
22 has removed itself from an educational service unit, each Class I
23 district which is part of such Class VI district may continue its
24 existing membership in an educational service unit or may change its
25 status relative to membership in an educational service unit in

1 accordance with section 79-1209. The patrons of a Class I district
2 maintaining membership in an educational service unit pursuant to
3 this subsection shall have the same rights and privileges as other
4 patrons of the educational service unit, and the taxable valuation of
5 the taxable property within the geographic boundaries of such Class I
6 district shall be subject to the educational service unit's tax levy
7 established pursuant to section 79-1225.

8 (6) The administrator of each educational service unit,
9 prior to July 1 of each year in which a statewide primary election is
10 to be held, shall certify to the election commissioner or county
11 clerk of each county located within the unit the corporate name of
12 each school district, as described in section 79-405, located within
13 the county. If a school district is a joint school district located
14 in two or more counties, the administrator shall certify to each
15 election commissioner or county clerk the educational service unit of
16 which the school district is considered to be a part.

17 (7) ~~Educational~~ An educational service unit may consist
18 of a single school district if the single school district is either a
19 Class IV or Class V school district. An educational service units
20 unit with only one member school district shall be governed by the
21 school board of such school district and shall participate in one or
22 more of the statewide projects managed by the Educational Service
23 Unit Coordinating Council.

24 Sec. 2. Section 79-1225, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 79-1225 (1) After the adoption of its budget statement,
2 the board for each educational service unit, except as provided in
3 subsection (2) of this section, may levy a tax in the amount which it
4 requires under its adopted budget statement to be received from
5 taxation. The levy shall be subject to the limits established by
6 section 77-3442. The amount of such levy shall be certified by the
7 secretary of the educational service unit board to the county board
8 of equalization of each county in which any part of the geographical
9 area of the educational service unit is located on or before
10 September 20 of each year. Such tax shall be levied and assessed in
11 the same manner as other property taxes and entered on the books of
12 the county treasurer. The proceeds of such tax, as collected, shall
13 be remitted to the treasurer of the board on or before the fifteenth
14 day of each month or more frequently as provided in section 77-1759.

15 (2) For fiscal year 2013-14 and each fiscal year
16 thereafter, only an educational service unit which has ~~two~~four or
17 more member school districts or an educational service unit composed
18 of a single Class IV or Class V school district may levy a tax on the
19 taxable value of the taxable property within the geographic
20 boundaries of the educational service unit.

21 Sec. 3. Section 79-1241.03, Revised Statutes Cumulative
22 Supplement, 2010, is amended to read:

23 79-1241.03 (1) Two percent of the funds appropriated for
24 core services and technology infrastructure shall be transferred to
25 the Educational Service Unit Coordinating Council. The remainder of

1 such funds shall be distributed pursuant to subsections (2) through
2 (6) of this section.

3 (2)(a) The distance education and telecommunications
4 allowance for each educational service unit shall equal eighty-five
5 percent of the difference of the costs for telecommunications
6 services, for access to data transmission networks that transmit data
7 to and from the educational service unit, and for the transmission of
8 data on such networks paid by the educational service unit as
9 reported on the annual financial report for the most recently
10 available complete data year minus the receipts from the federal
11 Universal Service Fund pursuant to 47 U.S.C. 254, as such section
12 existed on January 1, 2007, for the educational service unit as
13 reported on the annual financial report for the most recently
14 available complete data year and minus any receipts from school
15 districts or other educational entities for payment of such costs as
16 reported on the annual financial report of the educational service
17 unit.

18 (b) The base allocation of each educational service unit
19 shall equal two and one-half percent of the funds appropriated for
20 distribution pursuant to this section.

21 (c) The satellite office allocation for each educational
22 service unit shall equal one percent of the funds appropriated for
23 distribution pursuant to this section for each office of the
24 educational service unit, except the educational service unit
25 headquarters, up to the maximum number of satellite offices. The

1 maximum number of satellite offices used for the calculation of the
2 satellite office allocation for any educational service unit shall
3 equal the difference of the ratio of the number of square miles
4 within the boundaries of the educational service unit divided by four
5 thousand minus one with the result rounded to the closest whole
6 number.

7 (d) The statewide adjusted valuation shall equal the
8 total adjusted valuation for all member districts of educational
9 service units pursuant to section 79-1016 used for the calculation of
10 state aid for school districts pursuant to the Tax Equity and
11 Educational Opportunities Support Act for the school fiscal year for
12 which the distribution is being calculated pursuant to this section.

13 (e) The adjusted valuation for each educational service
14 unit shall equal the total adjusted valuation of the member school
15 districts pursuant to section 79-1016 used for the calculation of
16 state aid for school districts pursuant to the act for the school
17 fiscal year for which the distribution is being calculated pursuant
18 to this section, except that such adjusted valuation for member
19 school districts that are also member districts of a learning
20 community shall be reduced by fifty percent for school fiscal years
21 2008-09 and 2009-10, thirty percent for school fiscal year 2010-11,
22 and ten percent for each school fiscal year thereafter. The adjusted
23 valuation for each learning community shall equal fifty percent, for
24 school fiscal years 2008-09 and 2009-10, thirty percent, for school
25 fiscal year 2010-11, and ten percent, for each school fiscal year

1 thereafter, of the total adjusted valuation of the member school
2 districts pursuant to section 79-1016 used for the calculation of
3 state aid for school districts pursuant to the act for the school
4 fiscal year for which the distribution is being calculated pursuant
5 to this section.

6 (f) The local effort rate shall equal \$0.0135 per one
7 hundred dollars of adjusted valuation.

8 (g) The statewide student allocation shall equal the
9 difference of the sum of the amount appropriated for distribution
10 pursuant to this section plus the product of the statewide adjusted
11 valuation multiplied by the local effort rate minus the distance
12 education and telecommunications allowance, base allocation, and
13 satellite office allocation for all educational service units and
14 minus any adjustments required by subsection (5) of this section.

15 (h) The sparsity adjustment for each educational service
16 unit and learning community shall equal the sum of one plus one-tenth
17 of the ratio of the square miles within the boundaries of the
18 educational service unit divided by the fall membership of the member
19 school districts for the school fiscal year immediately preceding the
20 school fiscal year for which the distribution is being calculated
21 pursuant to this section.

22 (i) The adjusted students for each multidistrict
23 educational service unit shall equal the fall membership for the
24 school fiscal year immediately preceding the school fiscal year for
25 which aid is being calculated of the member school districts that

1 will not be members of a learning community and ~~fifty percent, for~~
2 ~~school fiscal years 2008-09 and 2009-10, seventy percent, for school~~
3 ~~fiscal year 2010-11, and ninety percent, for each school fiscal year~~
4 ~~thereafter,~~ of the fall membership for such school fiscal year of the
5 member school districts that will be members of a learning community
6 pursuant to this section multiplied by the sparsity adjustment for
7 the educational service unit. The adjusted students for each single-
8 district educational service unit shall equal ninety-five percent of
9 the fall membership for the school fiscal year immediately preceding
10 the school fiscal year for which aid is being calculated if the
11 member school district will not be a member of a learning community
12 and eighty-five percent of the fall membership for such school fiscal
13 year if the member school district will be a member of a learning
14 community pursuant to this section, multiplied by the sparsity
15 adjustment for the educational service unit. The , and the adjusted
16 students for each learning community shall equal ~~fifty percent, for~~
17 ~~school fiscal years 2008-09 and 2009-10, thirty percent, for school~~
18 ~~fiscal year 2010-11, and ten percent, for each school fiscal year~~
19 ~~thereafter, ten percent~~ of the fall membership for such school fiscal
20 year of the member school districts multiplied by the sparsity
21 adjustment for the learning community.

22 (j) The per student allocation shall equal the statewide
23 student allocation divided by the total adjusted students for all
24 educational service units and learning communities.

25 (k) The student allocation for each educational service

1 unit and learning community shall equal the per student allocation
2 multiplied by the adjusted students for the educational service unit
3 or learning community.

4 (1) The needs for each educational service unit shall
5 equal the sum of the distance education and telecommunications
6 allowance, base allocation, satellite office allocation, and student
7 allocation for the educational service unit and the needs for each
8 learning community shall equal the student allocation for the
9 learning community.

10 (m) The distribution of core services and technology
11 infrastructure funds for each educational service unit and learning
12 community shall equal the needs for each educational service unit or
13 learning community minus the product of the adjusted valuation for
14 the educational service unit or learning community multiplied by the
15 local effort rate.

16 (3) If an educational service unit is the result of a
17 merger or received new member school districts from another
18 educational service unit, the educational service unit shall be
19 considered a new educational service unit for purposes of this
20 section. For each new educational service unit, the needs minus the
21 distance education and telecommunications allowance for such new
22 educational service unit shall, for each of the three fiscal years
23 following the fiscal year in which the merger takes place or the new
24 member school districts are received, equal an amount not less than
25 the needs minus the distance education and telecommunications

1 allowance for the portions of the educational service units
2 transferred to the new educational service unit for the fiscal year
3 immediately preceding the merger or receipt of new member school
4 districts, except that if the total amount available to be
5 distributed pursuant to subsections (2) through (6) of this section
6 for the year for which needs are being calculated is less than the
7 total amount distributed pursuant to such subsections for the fiscal
8 year immediately preceding the merger or receipt of new member school
9 districts, the minimum needs minus the distance education and
10 telecommunications allowance for each educational service unit
11 pursuant to this subsection shall be reduced by a percentage equal to
12 the ratio of such difference divided by the total amount distributed
13 pursuant to subsections (2) through (6) of this section for the
14 fiscal year immediately preceding the merger or receipt of new member
15 school districts. The needs minus the distance education and
16 telecommunications allowance for the portions of educational service
17 units transferred to the new educational service unit for the fiscal
18 year immediately preceding a merger or receipt of new member school
19 districts shall equal the needs minus the distance education and
20 telecommunications allowance calculated for such fiscal year pursuant
21 to subsections (2) through (6) of this section for any educational
22 service unit affected by the merger or the transfer of school
23 districts multiplied by a ratio equal to the valuation that was
24 transferred to the new educational service unit for which the minimum
25 is being calculated divided by the total valuation of the educational

1 service unit transferring the territory.

2 (4) For fiscal years 2010-11 through 2013-14, each
3 educational service unit shall have needs minus the distance
4 education and telecommunications allowance equal to an amount not
5 less than ninety-five percent of the needs minus the distance
6 education and telecommunications allowance for the immediately
7 preceding fiscal year, except that if the total amount available to
8 be distributed pursuant to subsections (2) through (6) of this
9 section for the year for which needs are being calculated is less
10 than the total amount distributed pursuant to such subsections for
11 the immediately preceding fiscal year, the minimum needs minus the
12 distance education and telecommunications allowance for each
13 educational service unit pursuant to this subsection shall be reduced
14 by a percentage equal to the ratio of such difference divided by the
15 total amount distributed pursuant to subsections (2) through (6) of
16 this section.

17 (5) If the minimum needs minus the distance education and
18 telecommunications allowance pursuant to subsection (3) or (4) of
19 this section for any educational service unit exceeds the amount that
20 would otherwise be calculated for such educational service unit
21 pursuant to subsection (2) of this section, the statewide student
22 allocation shall be reduced such that the total amount to be
23 distributed pursuant to this section equals the appropriation for
24 core services and technology infrastructure funds and no educational
25 service unit has needs minus the distance education and

1 telecommunications allowance less than the greater of any minimum
2 amounts calculated for such educational service unit pursuant to
3 subsections (3) and (4) of this section.

4 (6) The State Department of Education shall certify the
5 distribution of core services and technology infrastructure funds
6 pursuant to subsections (2) through (6) of this section to each
7 educational service unit and learning community on or before July 1
8 of each year for the following school fiscal year. Except as
9 otherwise provided in this subsection, any funds appropriated for
10 distribution pursuant to this section shall be distributed in ten as
11 nearly as possible equal payments on the first business day of each
12 month beginning in September of each school fiscal year and ending in
13 June. Funds to be distributed to a learning community in school
14 fiscal year 2010-11 shall be distributed in ten payments on the first
15 business day of each month beginning in September 2010 and ending in
16 June 2011, with each of the first five payments equal as nearly as
17 possible to seventeen percent of the amount to be distributed and
18 with each of the last five payments equal as nearly as possible to
19 three percent of the amount to be distributed. Funds distributed to
20 educational service units pursuant to this section shall be used for
21 core services and technology infrastructure with the approval of
22 representatives of two-thirds of the member school districts of the
23 educational service unit, representing a majority of the adjusted
24 students in the member school districts used in calculations pursuant
25 to this section for such funds. The valuation of individual school

1 districts shall not be considered in the utilization of such core
2 services or technology infrastructure funds by member school
3 districts for funds received after July 1, 2010. Funds distributed to
4 learning communities on or before January 15, 2011, shall be used for
5 learning community purposes with the approval of the learning
6 community coordinating council. Funds distributed to learning
7 communities after January 15, 2011, shall be used for evaluation and
8 research pursuant to section 79-2104.02 with the approval of the
9 learning community coordinating council.

10 (7) For purposes of this section, the determination of
11 whether or not a school district will be a member of an educational
12 service unit or a learning community shall be based on the
13 information available May 1 for the following school fiscal year.

14 (8) It is the intent of the Legislature that:

15 (a) Funding for core services and technology
16 infrastructure for each educational service unit consist of both
17 amounts received pursuant to this section and an amount greater than
18 or equal to the product of the adjusted valuation for the educational
19 service unit multiplied by the local effort rate; and

20 (b) Each multidistrict educational service unit use an
21 amount equal to at least five percent of such funding for core
22 services and technology infrastructure for cooperative projects
23 between member school districts and that each such educational
24 service unit use an amount equal to at least five percent of such
25 funding for core services and technology infrastructure for statewide

1 projects managed by the Educational Service Unit Coordinating
2 Council.

3 Sec. 4. Section 79-1242, Revised Statutes Cumulative
4 Supplement, 2010, is amended to read:

5 79-1242 Funds generated from the property tax levy shall
6 only be used for purposes approved by representatives of two-thirds
7 of the member school districts in an educational service unit,
8 representing a majority of the students in the member school
9 districts. The valuation of individual school districts shall not be
10 ~~considered in the only consideration in determining~~ the utilization
11 of such funds received after July 1, 2010. Each educational service
12 unit shall prepare and transmit a written proposal of core services
13 offerings and use of the property tax levy to all member school
14 districts. The member school districts through their designated
15 representatives shall indicate their approval or disapproval of the
16 proposal within thirty calendar days after receipt of the proposal,
17 and failure to so indicate within such time period shall be deemed
18 approval of the proposal.

19 Sec. 5. Original section 79-1225, Reissue Revised
20 Statutes of Nebraska, and sections 79-1217, 79-1241.03, and 79-1242,
21 Revised Statutes Cumulative Supplement, 2010, are repealed.