

LEGISLATIVE BILL 446

Approved by the Governor March 14, 2012

Introduced by Adams, 24.

FOR AN ACT relating to educational service units; to amend section 79-1225, Reissue Revised Statutes of Nebraska, and sections 79-1217, 79-1241.03, and 79-1242, Revised Statutes Cumulative Supplement, 2010; to provide for participation in statewide projects as prescribed; to change a tax levy limitation; to change provisions relating to distribution and use of funds; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

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

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

(2) Vacancies in office shall occur as set forth in section 32-560, except as otherwise provided in section 79-1212 regarding the requirement to live in the district represented, or in the case of absences, unless excused by a majority of the remaining members of the board, when a member is absent from the geographical boundaries of the educational service unit for a continuous period of sixty days at one time or from more than two consecutive regular meetings of the board. Whenever any vacancy occurs on the board, the remaining members of such board shall appoint an individual residing within the election district of the educational service unit for which the vacancy exists and meeting the qualifications for the office to fill such vacancy for the balance of the unexpired term.

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

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

(5) Any Class I district which is part of a Class VI district shall be considered a part of the educational service unit of which the Class VI district is a member. If the Class VI district has removed itself from an educational service unit, each Class I district which is part of such Class VI district may continue its existing membership in an educational service unit or may change its status relative to membership in an educational service unit in accordance with section 79-1209. The patrons of a Class I district maintaining membership in an educational service unit pursuant to this subsection shall have the same rights and privileges as other patrons of the educational service unit, and the taxable valuation of the taxable property within the geographic boundaries of such Class I district shall be subject to the educational service unit's tax levy established pursuant to section 79-1225.

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

unit of which the school district is considered to be a part.

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

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

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

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

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

79-1241.03 (1) Two percent of the funds appropriated for core services and technology infrastructure shall be transferred to the Educational Service Unit Coordinating Council. The remainder of such funds shall be distributed pursuant to subsections (2) through (6) of this section.

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

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

(c) The satellite office allocation for each educational service unit shall equal one percent of the funds appropriated for distribution pursuant to this section for each office of the educational service unit, except the educational service unit headquarters, up to the maximum number of satellite offices. The maximum number of satellite offices used for the calculation of the satellite office allocation for any educational service unit shall equal the difference of the ratio of the number of square miles within the boundaries of the educational service unit divided by four thousand minus one with the result rounded to the closest whole number.

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

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

for each school fiscal year thereafter. The adjusted valuation for each learning community shall equal fifty percent, for school fiscal years 2008-09 and 2009-10, thirty percent, for school fiscal year 2010-11, and ten percent, for each school fiscal year thereafter, of the total adjusted valuation of the member school districts pursuant to section 79-1016 used for the calculation of state aid for school districts pursuant to the act for the school fiscal year for which the distribution is being calculated pursuant to this section.

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

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

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

(i) The adjusted students for each multidistrict educational service unit shall equal the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated of the member school districts that will not be members of a learning community and ~~fifty percent, for school fiscal years 2008-09 and 2009-10, seventy percent, for school fiscal year 2010-11, and ninety percent, for each school fiscal year thereafter,~~ of the fall membership for such school fiscal year of the member school districts that will be members of a learning community pursuant to this section multiplied by the sparsity adjustment for the educational service unit. The adjusted students for each single-district educational service unit shall equal ninety-five percent of the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated if the member school district will not be a member of a learning community and eighty-five percent of the fall membership for such school fiscal year if the member school district will be a member of a learning community pursuant to this section, multiplied by the sparsity adjustment for the educational service unit. ~~The~~ and the adjusted students for each learning community shall equal ~~fifty percent, for school fiscal years 2008-09 and 2009-10, thirty percent, for school fiscal year 2010-11, and ten percent, for each school fiscal year thereafter,~~ ten percent of the fall membership for such school fiscal year of the member school districts multiplied by the sparsity adjustment for the learning community.

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

(k) The student allocation for each educational service unit and learning community shall equal the per student allocation multiplied by the adjusted students for the educational service unit or learning community.

(l) The needs for each educational service unit shall equal the sum of the distance education and telecommunications allowance, base allocation, satellite office allocation, and student allocation for the educational service unit and the needs for each learning community shall equal the student allocation for the learning community.

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

(3) If an educational service unit is the result of a merger or received new member school districts from another educational service unit, the educational service unit shall be considered a new educational service unit for purposes of this section. For each new educational service unit, the needs minus the distance education and telecommunications allowance for such new educational service unit shall, for each of the three fiscal years following the fiscal year in which the merger takes place or the new member school districts are received, equal an amount not less than the needs minus the distance education and telecommunications allowance for the portions of the educational service units transferred to the new educational service unit for the fiscal year immediately preceding the merger or receipt of new member school districts, except that if the total amount available to be distributed pursuant to subsections (2) through (6) of this section for the year for

which needs are being calculated is less than the total amount distributed pursuant to such subsections for the fiscal year immediately preceding the merger or receipt of new member school districts, the minimum needs minus the distance education and telecommunications allowance for each educational service unit pursuant to this subsection shall be reduced by a percentage equal to the ratio of such difference divided by the total amount distributed pursuant to subsections (2) through (6) of this section for the fiscal year immediately preceding the merger or receipt of new member school districts. The needs minus the distance education and telecommunications allowance for the portions of educational service units transferred to the new educational service unit for the fiscal year immediately preceding a merger or receipt of new member school districts shall equal the needs minus the distance education and telecommunications allowance calculated for such fiscal year pursuant to subsections (2) through (6) of this section for any educational service unit affected by the merger or the transfer of school districts multiplied by a ratio equal to the valuation that was transferred to the new educational service unit for which the minimum is being calculated divided by the total valuation of the educational service unit transferring the territory.

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

(5) If the minimum needs minus the distance education and telecommunications allowance pursuant to subsection (3) or (4) of this section for any educational service unit exceeds the amount that would otherwise be calculated for such educational service unit pursuant to subsection (2) of this section, the statewide student allocation shall be reduced such that the total amount to be distributed pursuant to this section equals the appropriation for core services and technology infrastructure funds and no educational service unit has needs minus the distance education and telecommunications allowance less than the greater of any minimum amounts calculated for such educational service unit pursuant to subsections (3) and (4) of this section.

(6) The State Department of Education shall certify the distribution of core services and technology infrastructure funds pursuant to subsections (2) through (6) of this section to each educational service unit and learning community on or before July 1 of each year for the following school fiscal year. Except as otherwise provided in this subsection, any funds appropriated for distribution pursuant to this section shall be distributed in ten as nearly as possible equal payments on the first business day of each month beginning in September of each school fiscal year and ending in June. Funds to be distributed to a learning community in school fiscal year 2010-11 shall be distributed in ten payments on the first business day of each month beginning in September 2010 and ending in June 2011, with each of the first five payments equal as nearly as possible to seventeen percent of the amount to be distributed and with each of the last five payments equal as nearly as possible to three percent of the amount to be distributed. Funds distributed to educational service units pursuant to this section shall be used for core services and technology infrastructure with the approval of representatives of two-thirds of the member school districts of the educational service unit, representing a majority of the adjusted students in the member school districts used in calculations pursuant to this section for such funds. The valuation of individual school districts shall not be considered in the utilization of such core services or technology infrastructure funds by member school districts for funds received after July 1, 2010. Funds distributed to learning communities on or before January 15, 2011, shall be used for learning community purposes with the approval of the learning community coordinating council. Funds distributed to learning communities after January 15, 2011, shall be used for evaluation and research pursuant to section 79-2104.02 with the approval of the learning community coordinating council.

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

following school fiscal year.

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

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

(b) Each multidistrict educational service unit use an amount equal to at least five percent of such funding for core services and technology infrastructure for cooperative projects between member school districts and that each such educational service unit use an amount equal to at least five percent of such funding for core services and technology infrastructure for statewide projects managed by the Educational Service Unit Coordinating Council.

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

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

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