

**ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010**  
**COMMITTEE STATEMENT**  
**LB1071**

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**Hearing Date:** Monday February 08, 2010  
**Committee On:** Education  
**Introducer:** Adams  
**One Liner:** Change provisions relating to schools

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

**Aye:** 8      Senators Adams, Ashford, Avery, Cornett, Giese, Haar, Howard, Sullivan  
**Nay:**  
**Absent:**  
**Present Not Voting:**

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**Proponents:**  
Senator Greg Adams  
Jay Sears

**Representing:**  
Introducer  
Nebraska State Education Association

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

**Summary of purpose and/or changes:**

Legislative Bill 1071 is the K-12 technical bill for 2010. The measure would remove a reporting requirement for county assessors, eliminate obsolete language, clarify residency provisions for school districts, change the graduate program requirements for the Enhancing Excellence in Teaching Program, modify qualifications for pre-school programs that receive state aid pursuant to the Tax Equity and Educational Opportunities Support Act (TEEOSA), provide that school districts provide information for the calculation of certain allowances pursuant to TEEOSA prior to October 15th, and harmonize the calculation of unused budget authority with recent changes in the budget authority provisions for school districts.

**Reporting Requirement**

Section 13-509 would be amended by removing a requirement for county assessors to certify taxable value of school districts to the Department of Education. The assessors certify the taxable value to the Property Tax Administrator on or before August 25th pursuant to this section and then again on the Certificate of Taxes Levied, which is certified on or before December 1st pursuant to section 77-1613.01. The Department of Education receives the valuation information used to calculate TEEOSA aid from the Property Tax Administrator.

**Obsolete Language**

Section 79-201 would be amended by eliminating obsolete and repetitive language regarding compulsory attendance.

**Residency**

Section 79-215 would be amended by restructuring the provisions allowing students to attend any school district in which at least one of the student's parents reside. The language regarding homeless students would be revised to be more consistent with other provisions in the section. Clarification would be added requiring school boards of learning community school districts to admit nonresident students pursuant to the open enrollment provisions of their learning community's diversity plan. The requirement for rules and regulations to carry out the section would become optional.

#### Enhancing Excellence in Teaching Program

Section 79-8,137.01 would be amended by defining an eligible graduate program for the Enhancing Excellence in Teaching Program as a program of study offered by an eligible institution which results in obtaining a graduate degree. Enrollment in an eligible graduate program would replace the requirement for enrollment in a graduate teacher education program for participation in the Enhancing Excellence in Teaching Program. The definition for a graduate teacher education program would be eliminated. That definition currently requires approval of the program by the State Board of Education, which would not be required under the new definition. The requirement remains for the major to be in a shortage area, curriculum and instruction, a subject area in which the individual already holds a secular teaching endorsement, or a subject area that will result in an additional secular teaching endorsement which the superintendent or head administrator believes will be beneficial to the students.

Section 79-8,137.03 would be amended by harmonizing with the change in the requirement for Enhancing Excellence in Teaching Program participants to enroll in an eligible graduate program, rather than a graduate teacher education program. Clarification is also added to allow the Department of Education to determine the major on which an applicant's eligibility is based and which the student agrees to complete.

Section 79-8,137.04 would be amended by harmonizing with the change in the requirement for Enhancing Excellence in Teaching Program participants to enroll in an eligible graduate program, rather than a graduate teacher education program.

#### Early Childhood Education & TEEOSA

Section 79-1003 would be amended by adding prekindergarten programs approved by the department pursuant to section 79-1104, but which do not meet the standards currently required for TEEOSA funding pursuant to 79-1103, to the TEEOSA calculation.

#### TEEOSA Deadlines

Section 79-1003.01 would be amended by requiring school districts that receive a summer school allowance to submit the necessary information for the calculation on a form prescribed by the department on or before October 15th of the school fiscal year preceding the school fiscal year for which aid is being calculated.

Section 79-1007.04 would be amended by requiring school districts that receive an elementary class size allowance to submit the necessary information for the calculation on a form prescribed by the department on or before October 15th of the school fiscal year preceding the school fiscal year for which aid is being calculated.

Section 79-1007.05 would be amended by requiring school districts that receive a focus school and program allowance to submit the necessary information for the calculation on a form prescribed by the department on or before October 15th of the school fiscal year preceding the school fiscal year for which aid is being calculated.

Section 79-1007.23 would be amended by requiring school districts that receive an instructional time allowance to submit the necessary information for the calculation on a form prescribed by the department on or before October 15th of the school fiscal year preceding the school fiscal year for which aid is being calculated.

Section 79-1013 would be amended by moving the deadline for designating a maximum poverty allowance for the next

fiscal year from October 10th to 15th.

Section 79-1013 would be amended by moving the deadline for designating a maximum limited English proficiency allowance for the next school fiscal year from October 10th to the 15th.

#### Unused Budget Authority

Section 79-1030 would be amended by updating the provisions for unused budget authority to rely on the calculated budget authority, rather than the applicable allowable growth rate.

#### Emergency Clause

The measure contains an emergency clause, which would only affect the changes to the Enhancing Excellence in Teaching Program.

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#### **Explanation of amendments:**

The Committee Amendment would amend or establish provisions related to the deadline for the certification of state aid, the calculation of state aid for unified systems, the early childhood education programs to be included in the calculation of state aid, and district responsibilities for students participating in open enrollment. The amendment would also incorporate concepts from LB 957 (memorandum of understanding for student data) and LB 1069 (Educational Service Unit Coordinating Council, core services and technology infrastructure funding, and technology purchases).

#### Certification Deadline for TEEOSA

The deadline for the certification of state aid to school districts pursuant to the Tax Equity and Educational Opportunities Support Act (TEEOSA) would be moved to April 1st for 2011 and March 1st thereafter. The deadline in current law is generally February 1st, except that it is March 10th for 2010. Sections 79-1022, 79-1023, 79-1026.01, 79-1027, and 79-1031.01 would be amended to implement the change.

#### Unified Systems & TEEOSA

The amendment would treat each unified system as a single district for the calculation of state aid pursuant to TEEOSA beginning with the calculation for the 2011-12 school fiscal year. Section 79-4,108 would be amended by removing the provision that allows the Department of Education to require unified systems to report on an individual district basis as necessary to calculate formula need for state aid. The current provisions require the Department to treat unified systems as a single district with that one exception. The definition of district for TEEOSA in section 79-1003 would be amended to treat each unified system as single school district beginning with the 2011-12 school fiscal year.

#### Early Childhood Education & TEEOSA

The approval of early childhood education programs for inclusion in TEEOSA calculations would be clarified without any substantive changes in the qualifications. Section 79-1103 would be amended by clarifying that early childhood education programs could be approved for purposes of TEEOSA, expansion grants, and continuation grants whether the program was established pursuant to the grant process in section 79-1103 or under the general authorization to establish such programs pursuant to section 79-1104. The new language in the original proposal modifying the definitions of qualified early childhood education average daily membership and qualified early childhood education fall membership for TEEOSA in section 79-1003 would not be included.

#### Open Enrollment

Students in a learning community who transfer to another district pursuant to the open enrollment provisions would become the responsibility of the new districts and would be treated as if they were a resident student. The provisions

mirror those for the enrollment option program, except that for option students, the resident district retains responsibility for special education transportation.

A new section would provide that for the purposes of all duties, entitlements, and rights established by law, including special education, open enrollment students would be treated as resident students of the open enrollment school district.

In determining eligibility for extracurricular activities as defined in section 79-2,126, the open enrollment student would be treated similarly to other students who transfer into the school from another public, private, denominational, or parochial school.

For open enrollment students verified as having a disability as defined in section 79-118.01, the transportation services set forth in section 79-1129 would be provided by the open enrollment school district. The open enrollment district would receive special education reimbursements pursuant to section 79-1142 and the resident district would be exempt from payment responsibilities pursuant to section 79-1140.

For purposes of the Tax Equity and Educational Opportunities Support Act, open enrollment students shall be counted by the open enrollment district, not the resident district.

#### Memorandum of Understanding for Student Data Systems

The committee amendment also incorporates amended provisions of Legislative Bill 957. The provisions would require the State Board of Education to enter into memoranda of understanding with the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, and the board of governors of each community college area to adopt a policy for sharing student data. Each of the aforementioned public postsecondary education governing bodies would also be required to enter into such a memorandum of understanding with the State Board of Education. The bill would require such memoranda of understanding to be entered into on or before September 1, 2010. Policies for sharing student data that are ultimately adopted would have to ensure that the exchange of information is conducted in conformance with the federal Family Educational Rights and Privacy Act. The committee amendment adds the emergency clause to these provisions.

In contrast to the original provisions of LB 957, the provisions included in the committee amendment do not require public education governing bodies to share student data with qualified researchers upon request. Additionally, the requirement for the State Board of Education to enter into a memorandum of understanding with each of the respective public postsecondary education governing bodies is proposed as a new section of statute, rather than an additional duty in section 79-318 as proposed in LB 957. The emergency clause was also not included in the original bill.

#### Educational Service Unit Coordinating Council

The ESU Coordinating Council would be declared a political subdivision with the associated rights and responsibilities, but without taxing authority. The employment of the council director and distance education director would be allowed to rest with an individual ESU, except that the supervisory responsibilities would be required to remain with the Council.

Section 79-1245 would be amended by declaring that the ESU Coordinating Council is a political subdivision and a public body corporate and politic of the state and able to exercise public powers separate from the participating ESU's. The council would have the duties, privileges, immunities, rights, liabilities, and disabilities of a political subdivision and a public body corporate and politic but would not have taxing power. The powers of the council could only be used as necessary or convenient to carry out and effectuate the powers and purposes of the council. The council would have power:

1. To sue and be sued;
2. To have a seal and alter the same at will or to dispense with the necessity thereof;
3. To make and execute contracts and other instruments;
4. To receive, hold, and use money and real and personal property;
5. To hire and compensate employees, including certificated employees;
6. To act as a fiscal agent for statewide initiatives being implemented by employees of one or more ESU's; and

7. To make, amend, and repeal bylaws, rules, and regulations not inconsistent with the statutory sections providing for the council.

Section 79-1247 would be amended by authorizing the employment of the council director or the distance education director by an individual educational service unit, except that the supervisory responsibilities for such employees would be required to remain with the council. Incorrect cross references regarding the reimbursement of expenses by the state are eliminated. Obsolete language would also be eliminated.

#### Core Services and Technology Infrastructure Funding

The formula for distributing core services and technology infrastructure funding to ESU's and learning communities contained in section 79-1241.03 would be modified by the amendment.

Currently, 1% of the available funds are distributed directly to the ESU Coordinating Council. The amendment would increase that percentage to 2%. This change was not included in the original provisions of LB 1069.

The hold harmless provisions in the formula would also be modified. The basic formula of Needs - Resources = Aid is similar to the TEEOSA formula. The formula currently has two hold harmless provisions based on aid received in prior years. One provides 100% of prior year aid for ESU's that reorganize and the other is based on 95% of the prior year aid. With the proposal, the hold harmless provisions would be based on prior year needs, instead of aid, except that the distance education and telecommunications allowance would be subtracted prior to the hold harmless calculation. The provisions for the merger hold harmless, for the 95% hold harmless, and for adjusting the student allocation based on ESU's that are held harmless would also be clarified without any further substantive changes. In addition, obsolete language is eliminated, a cross reference to learning community sections is expanded, and internal references are harmonized. These changes were included in the original provisions of LB 1069.

#### Technology Purchases

The amendment would clarify and limit the responsibilities of the Nebraska Information Technology Commission (NITC) with regard to technology equipment purchased by education-related political subdivisions. The technical standards would also be required to not unnecessarily interfere with the use of new technologies or with commercial competition. A requirement for the Chief Information Officer (CIO) to bid for distance education equipment would be modified to allow, but not require, the CIO to continue such bidding. It would also be restated that participation in Network Nebraska is voluntary for any education-related political subdivision. The costs allowed to be passed on to participants would also be limited. Obsolete provisions regarding ESU's and distance education would be eliminated.

A new section would replace various provisions for education-related political subdivisions to comply with standards established by the NITC. The new section would require information technology purchases made with state funds or local tax receipts by education-related political subdivision to meet or exceed any applicable technical standards established by the Commission. Existing requirements regarding compliance with NITC standards or review by the NITC for education-related political subdivisions would be removed from sections 79-1233, 79-1248, 79-1249, and 86-516. Section 79-1241.02, which requires that technology purchases made with core services and technology infrastructure funds follow NITC review procedures, would be outright repealed.

The new section would also authorize the Chief Information Officer (CIO) to bid for such equipment and allow education-related political subdivisions to participate in leasing or purchasing contracts. The CIO is currently required to bid for such equipment in sections 79-1233 and 86-520. That requirement would be removed from both sections.

In addition, the new section would also require education related political subdivisions to provide written notice to the University and the CIO prior to the use of any new or additional equipment that will impact the use of Network Nebraska if required by established guidelines.

Section 86-501 would be amended to include the new section in the Information Technology Infrastructure Act.

Section 86-506 would be amended to clarify that an enterprise project for purposes of the Information Technology Infrastructure Act is an endeavor undertaken by an enterprise, which is currently defined in section 86-505. This change was not included in the original provisions of LB 1069.

The original provisions of LB 1069 would have required reviews for compliance with technical standards for purchases of technology infrastructure hardware components bought with state funds or local tax receipts by education-related political subdivisions and costing more than \$10,000. Currently, all state entities and political subdivisions are required to submit all technology projects to the NITC for approval, except that the ESU Coordinating Council is only required to submit purchases over \$10,000 to the technical panel.

Section 86-516 would also be amended by limiting the standards and guidelines of the technical panel of the NITC to those which will not unnecessarily restrict the use of new technologies or prevent commercial competition, including competition with Network Nebraska. This limit was included in the original provisions of LB 1069, but in section 86-521, instead of 86-516.

Section 86-5,100 would be amended by restating that participation in Network Nebraska shall not be required for any educational entity except the University of Nebraska. The requirements for the cost structure for Network Nebraska would also be modified to allow only necessary administrative expenses, which could not include administrative travel or conference expenses. Currently, the administrative expenses that are included in the costs paid by participants are not restricted. Under a new requirement, the CIO would annually provide a detailed report of the costs to each participant and to the Legislative Fiscal Office. In the original provisions of LB 1069, no travel was allowed to be included in administrative expenses.

In addition to section 79-1241.02, sections 79-1243 and 79-1331 would be outright repealed. Section 79-1243 provided for the distribution of technology infrastructure funds prior to the 2008-09 school fiscal year. Section 79-1241.01 would be amended to harmonize with the outright repeal of section 79-1243. Section 79-1331 provided for the transfer of responsibility for distance education from distance education consortia to ESU's as of July 1, 2007.

#### Emergency Clause

The emergency clause would apply to the provisions regarding the memorandum of understanding for student data, the Educational Service Unit Coordinating Council, core services and technology infrastructure funding, and technology purchases.

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Greg Adams, Chairperson