LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1034

Introduced by Pahls, 31.
Read first time January 13, 2022
Committee: Education

A BILL FOR AN ACT relating to schools; to amend section 79-1242, Reissue Revised Statutes of Nebraska, section 79-1204, Revised Statutes Cumulative Supplement, 2020, and sections 79-760.06 and 79-1241.03, Revised Statutes Supplement, 2021; to provide for the designation of needs improvement schools; to provide duties and intent; to change provisions regarding core services, core services and technology infrastructure funds, and educational service unit funds generated from the property tax levy; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,
Section 1. (1) For each school classified as a progress school pursuant to subsection (4) of section 79-760.06, the educational service unit containing such school shall appoint an intervention team of up to five individuals employed by such educational service unit. The intervention team shall assist the school district with diagnosing issues that negatively affect student achievement in the school, designing and implementing strategies to address such issues, and developing measurable indicators of progress.

(2) The intervention team, in collaboration with the staff, administration, and school board for the progress school, shall also develop a progress plan for the progress school to be submitted for approval by the State Board of Education. Each progress plan shall include specific actions required by the school and the school district, including any required level of progress as indicated by the measurable indicators.

(3) Compliance with progress plans shall be a requirement to maintain accreditation for any school district that contains a progress school. The state board shall annually review any progress plans and determine whether any modifications are needed.

(4) The school board of a school district containing a progress school shall provide the intervention team with full access to the progress school, progress school staff, the school district, school district staff, academic information, financial information, and any other requested information.

(5) On or before December 1 of 2023, 2024, and 2025, for the school year ending during such calendar year, the Commissioner of Education shall submit a report to the Governor and electronically to the Clerk of the Legislature and the chairperson of the Education Committee of the Legislature. The report shall include the name of each progress school, the grades included in the progress school designation, the name of the school district, a summary of the progress plan, and the level of
progress as indicated by the measurable indicators. The report for the 2023-24 school year shall also contain recommendations regarding the continuation of or changes to the process of designating progress schools and the requirements under this section.

(6) The Education Committee of the Legislature shall study the reports submitted pursuant to subsection (5) of this section and any other relevant information and shall determine whether to introduce legislation to continue or change the process of designating progress schools or the requirements under this section.

(7) The State Department of Education shall hire two qualified individuals to serve as progress coordinators. Each progress coordinator shall oversee the progress plans for five progress schools, evaluate and coordinate existing resources to increase achievement in the progress schools, and consult with the progress schools, school districts, and educational service units on the development, implementation, and evaluation of progress plans for such progress school. Each progress coordinator shall also provide data and reports regarding the progress schools as requested by the Commissioner of Education to carry out this section.

(8) It is the intent of the Legislature that two hundred seventy-two thousand eight hundred thirty dollars from the funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund pursuant to the federal American Rescue Plan Act of 2021, Public Law 117-2, be appropriated to the State Department of Education for the salary, benefits, and expenses of any progress coordinators hired pursuant to subsection (7) of this section.

(9) The State Board of Education shall adopt and promulgate rules and regulations to carry out this section.

Sec. 2. Section 79-760.06, Revised Statutes Supplement, 2021, is amended to read:

79-760.06 (1) The State Board of Education shall establish an
accountability system to be used to measure the performance of individual public schools and school districts. The accountability system shall combine multiple indicators, including, but not limited to, graduation rates, student growth and student improvement on the assessment instruments provided in section 79-760.03, student discipline, and other indicators of the performance of public schools and school districts as established by the state board.

(2) The indicators selected by the state board for the accountability system shall be combined annually into a school performance score and district performance score. The state board shall establish levels of performance based upon school performance scores and district performance scores in order to annually classify and report the performance of public schools and school districts beginning with the reporting of data from school year 2014-15. The department shall classify and report the performance of public schools and school districts annually on or before December 31 of each calendar year.

(3) The state board shall designate priority schools based on such classification. Schools designated as priority schools shall be at the lowest performance level at the time of the initial priority school designation. Schools designated as priority schools shall remain priority schools until such designation is removed by the state board. No less than three schools may have a priority school designation at one time. Schools designated as priority schools shall be subject to the requirements of section 79-760.07.

(4) The state board shall designate the ten lowest performing schools in the most recent classification and report pursuant to subsection (2) of this section as of the effective date of this act, excluding any school designated as a priority school pursuant to subsection (3) of this section, as progress schools through school year 2024-25. Each progress school shall be subject to the requirements of section 1 of this act.
(5) The State Department of Education shall annually report the performance level of individual public schools and school districts as part of the statewide assessment and reporting system.

Sec. 3. Section 79-1204, Revised Statutes Cumulative Supplement, 2020, is amended to read:

79-1204 (1) The role and mission of the educational service units is to serve as educational service providers in the state's system of elementary and secondary education.

(2) Educational service units shall:

(a) Act primarily as service agencies in providing core services and services identified and requested by member school districts;

(b) Provide for economy, efficiency, and cost-effectiveness in the cooperative delivery of educational services;

(c) Provide educational services through leadership, research, and development in elementary and secondary education;

(d) Act in a cooperative and supportive role with the State Department of Education and school districts in development and implementation of long-range plans, strategies, and goals for the enhancement of educational opportunities in elementary and secondary education; and

(e) Serve, when appropriate and as funds become available, as a repository, clearinghouse, and administrator of federal, state, and private funds on behalf of school districts which choose to participate in special programs, projects, or grants in order to enhance the quality of education in Nebraska schools.

(3) Except as provided in this subsection for progress schools, core services shall be provided by educational service units to all member school districts. Core services shall be defined by each educational service unit as follows:

(a) Core services shall be within the following service areas in order of priority: (i) Assistance to progress schools as provided in
section 1 of this act; (ii) staff development which shall include access to staff development related to improving the achievement of students in poverty and students with diverse backgrounds; (iii) technology, including distance education services; and (iv) instructional materials services;

(b) Core services shall improve teaching and student learning by focusing on enhancing school improvement efforts, meeting statewide requirements, and achieving statewide goals in the state's system of elementary and secondary education;

(c) Except as provided in this subsection for progress schools, core services shall provide schools with access to services that:

(i) The educational service unit and its member school districts have identified as necessary services;

(ii) Are difficult, if not impossible, for most individual school districts to effectively and efficiently provide with their own personnel and financial resources;

(iii) Can be efficiently provided by each educational service unit to its member school districts; and

(iv) Can be adequately funded to ensure that the service is provided equitably to the state's public school districts;

(d) Core services shall be designed so that the effectiveness and efficiency of the service can be evaluated on a statewide basis; and

(e) Core services shall be provided by the educational service unit in a manner that minimizes the costs of administration or service delivery to member school districts.

(4) Educational service units shall meet minimum accreditation standards set by the State Board of Education that will:

(a) Provide for accountability to taxpayers;

(b) Assure that educational service units are assisting and cooperating with school districts to provide for equitable and adequate educational opportunities statewide; and
(c) Assure a level of quality in educational programs and services provided to school districts by the educational service units.

(5) Educational service units may contract to provide services to:

(a) Nonmember public school districts;
(b) Nonpublic school systems;
(c) Other educational service units; and
(d) Other public agencies, under the Interlocal Cooperation Act and the Joint Public Agency Act.

(6) Educational service units shall not regulate school districts unless specifically provided pursuant to another section of law.

(7) The board of any educational service unit in this state may pay from its funds an amount to be determined by the board for membership dues in associations of school boards or boards of education.

Sec. 4. Section 79-1241.03, Revised Statutes Supplement, 2021, is amended to read:

79-1241.03 (1) Two percent of the appropriation for core services and technology infrastructure funds shall be transferred to the Educational Service Unit Coordinating Council. The remainder of such funds shall be distributed pursuant to subsections (2) through (5) 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, 2021, 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 ten percent.
The adjusted valuation for each learning community shall equal ten
percent 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 (4) 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 ninety percent 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 adjusted students for each learning community shall equal 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 (5) 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 (5) 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 (5) 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) If the minimum needs minus the distance education and telecommunications allowance pursuant to subsection (3) 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 subsection (3) of this section.

(5) The State Department of Education shall certify the distribution of core services and technology infrastructure funds pursuant to subsections (2) through (5) 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 last business day of each month beginning in September of each school fiscal year and ending in June. Excluding funds used to provide assistance to progress schools as provided in section 1 of this act, payments 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 shall be used for evaluation and research pursuant to section 79-2104.02 with the approval of the learning community coordinating council.

(6) 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.

(7) 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. 5. Section 79-1242, Reissue Revised Statutes of Nebraska, is amended to read:

79-1242 Excluding funds used to provide assistance to progress schools as provided in section 1 of this act, 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 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. 6. Original section 79-1242, Reissue Revised Statutes of Nebraska, section 79-1204, Revised Statutes Cumulative Supplement, 2020, and sections 79-760.06 and 79-1241.03, Revised Statutes Supplement, 2021,
are repealed.

Sec. 7. Since an emergency exists, this act takes effect when passed and approved according to law.