

ESUCC

Legislative Committee Meeting

Tuesday, April 7, 2015, 9:00 AM

Educational Service Unit No. 3 6949 So. 110th Street LaVista, NE 68128, 6949 South 110th Street, LaVista, NE 68128

Attendance Taken at 9:09 AM.

Allen ESU 19:	Present
Beatty ESU 16:	Present
Bell ESU 10:	Present
Jeff West (NE):	Absent
Shoemake ESU 06:	Present
Standish ESU 18:	Present
Dan Schnoes (NE) (ESU 03):	Present
Paul Calvert (ESU 15):	Present

1. Call to Order

2. Roll Call

3. Agenda Item

3.1. ESUCC Legislative Action Plan

3.2. Network NE Membership (Non-Profit Agencies)

3.3. LB 343 (Programs of Excellence)

3.4. LB 478 (ESU Facility Funding)

3.5. Appropriations

3.6. Lobbyist

4. Next Meetings Agenda Items

5. Executive Session

6. Adjournment

{{Name: Agenda Item Name}}
{{Discussion: Agenda Item Discussion}}
{{Comments: Agenda Item Comments}}
{{Actions: Agenda Item Actions}}

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 343

Introduced by Kolowski, 31.

Read first time January 15, 2015

Committee: Education

- 1 A BILL FOR AN ACT relating to education; to state intent; to define
- 2 terms; to provide for funding for schools implementing and offering
- 3 courses and programs as prescribed; to create a fund; and to declare
- 4 an emergency.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Legislature finds that:

2 (1) In order for Nebraska's students to adequately prepare for
3 postsecondary education and careers, public schools in conjunction with
4 educational service units in Nebraska should offer courses of increased
5 educational rigor and relevancy, including, but not limited to, programs
6 of excellence, dual-enrollment courses, and career academies;

7 (2) The startup costs of implementing and the ongoing costs of
8 offering such programs, courses, and academies, including, but not
9 limited to, curricula, textbooks, testing fees, postsecondary tuition,
10 technology, equipment, staffing, staff training, and other related
11 expenses, can often exceed the resources available to a school district
12 or an educational service unit; and

13 (3) It is in the best interests of the state to provide a dedicated
14 source of funding to public schools in Nebraska through educational
15 service units for such programs, courses, and academies.

16 Sec. 2. For purposes of sections 1 to 5 of this act:

17 (1) Career academy means a career academy established pursuant to
18 section 79-777;

19 (2) Dual-enrollment course means a course taught to students for
20 credit at both a high school and a postsecondary educational institution
21 accredited by an accrediting organization recognized by the United States
22 Department of Education; and

23 (3) Program of excellence means a nationally recognized program,
24 offered in the high school grades that includes a curriculum and
25 pedagogy, professional development for teachers, and a rigorous
26 assessment external to the school system.

27 Sec. 3. (1) The State Board of Education may adopt and promulgate
28 rules and regulations to determine the mechanisms for successful student
29 completion of a program of excellence, a dual-enrollment course, or a
30 career academy. For each student who completes a program of excellence, a
31 dual-enrollment course, or a career academy, the department shall approve

1 and reimburse the school district through its educational service unit XX
2 dollars if the school district through its educational service unit has
3 applied pursuant to section 4 of this act.

4 (2) For purposes of the general fund budget of expenditures as
5 defined in section 79-1003, funds received pursuant to this section shall
6 be considered special grant funds.

7 Sec. 4. (1) An educational service unit on behalf of a school
8 district may apply to the State Department of Education for reimbursement
9 under section 3 of this act. The school district through its educational
10 service unit shall provide documentation of the number of students in
11 each program, course, or academy for which reimbursement is requested and
12 the number of students successfully completing each program, course, or
13 academy pursuant to the rules and regulations adopted and promulgated by
14 the State Board of Education pursuant to section 3 of this act.

15 (2) Reimbursement under this section shall apply to a program of
16 excellence, a dual-enrollment course, or a career academy taken on or
17 after July 1 of every year beginning in 2016. Applications shall be
18 submitted not later than August 1 of every year beginning in 2017. The
19 department shall award the grants provided for in this section and
20 distribute such grants after September 1 and no later than October 1 of
21 every year beginning in 2017.

22 Sec. 5. (1) A school implementing a program of excellence, a dual-
23 enrollment course, or a career academy may apply through its educational
24 service unit to the State Department of Education for a grant of funds to
25 offset the initial costs of such implementation. The school district may
26 not receive more than forty-nine percent of the total cost of such
27 program, course, or academy pursuant to a grant under this section. Such
28 program, course, or academy shall be implemented within two years after
29 the date on which the grant application is approved. If such program,
30 course, or academy is not implemented within such two-year time period,
31 the school district through its educational service unit shall return one

1 hundred percent of the amount of the grant to the department. Grants
2 shall be distributed by the department not later than December 1 of every
3 year beginning in 2016.

4 (2) Application for a grant under this section shall be submitted no
5 later than August 1 of every year beginning in 2016, and shall be on
6 forms provided by the department and shall include, but not be limited
7 to, the program, course, or academy to be implemented, the number of
8 students projected to enroll in such program, course, or academy, an
9 itemized listing of the projected expenses of implementing such program,
10 course, or academy, including, but not limited to, textbooks, curricula,
11 program fees, postsecondary tuition, technology, equipment, staffing,
12 staff training, and other expenses specifically related to implementing
13 such program, course, or academy, and other information deemed necessary
14 by the department.

15 (3) The College and Career Readiness Fund is created. Money in the
16 fund available for investment shall be invested by the state investment
17 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
18 State Funds Investment Act.

19 (4) The fund shall be used to provide grants to school districts as
20 provided in this section.

21 (5) For purposes of the general fund budget of expenditures as
22 defined in section 79-1003, funds received pursuant to this section shall
23 be considered special grant funds.

24 Sec. 6. (1) It is the intent of the Legislature to appropriate
25 seven million dollars from the General Fund for fiscal year 2016-17 to
26 carry out the purposes of section 3 of this act.

27 (2) It is the intent of the Legislature to appropriate three million
28 dollars from the Education Innovation Fund for fiscal year 2015-16 to
29 carry out the purposes of section 5 of this act. For fiscal year 2016-17
30 and each fiscal year thereafter, grants under section 5 of this act shall
31 be funded as the Legislature determines.

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

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 478

Introduced by Baker, 30.

Read first time January 20, 2015

Committee: Education

- 1 A BILL FOR AN ACT relating to educational service units; to amend section
- 2 79-1223, Reissue Revised Statutes of Nebraska; to provide for
- 3 bonding; and to repeal the original section.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1223, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 79-1223 (1) In order to carry out the purposes provided in section
4 79-1204, educational service units may construct, purchase, lease, or
5 lease-purchase real estate, equipment, supplies, services, buildings,
6 facilities, and personal property for their own use. Educational service
7 units may, either individually or collectively, purchase, lease, lease-
8 purchase, or act as purchase agent for administrative and instructional
9 supplies, instructional equipment, instructional services, and personal
10 property for resale only to educational entities. When an educational
11 service unit advertises for bids for administrative or instructional
12 supplies, instructional equipment, instructional services, and personal
13 property, acceptance of any bid submitted to the educational service unit
14 shall obligate the educational service unit to award the contract in
15 accordance with the plans and specifications and in the quantities set
16 forth in the bid documents.

17 (2) In addition to any other borrowing powers provided for by law,
18 an educational service unit shall have the power to issue its negotiable
19 bonds in connection with any project or transaction under subsection (1)
20 of this section, such bonds to be issued from time to time, to bear
21 interest at a rate or rates and to become due at such time or times, not
22 to exceed a period of thirty years, as may be fixed by the educational
23 service unit. Such bonds may be issued after the educational service unit
24 has conducted a public hearing on the issuance of bonds. Notice of such
25 public hearing shall be given by publication in a newspaper of general
26 circulation within the territory of the educational service unit by at
27 least one publication occurring not less than ten days prior to the time
28 of hearing. After the public hearing, the governing body of the
29 educational service unit may proceed to adopt a bond measure authorizing
30 bonds.

31 (3) In order to carry out subsections (1) and (2) of this section or

1 any purposes provided in section 79-1204, educational service units may
2 establish a special fund for purposes of paying off such bonds or for
3 acquiring, constructing, purchasing, leasing, or lease-purchasing new or
4 existing buildings, facilities, real estate, and other capital
5 improvements, including the erection, alteration, equipping, and
6 furnishing of same. The fund shall be established from the proceeds of an
7 annual levy, to be determined by the educational service unit governing
8 body, of not to exceed one cent on each one hundred dollars upon the
9 taxable value of all taxable property in the educational service unit
10 which shall be in addition to any other taxes authorized to be levied for
11 educational service unit purposes. Such tax shall be levied and collected
12 as are other taxes for educational service unit purposes. The levy
13 pursuant to this section shall be in addition to any other
14 constitutional, statutory, or educational service unit levy or spending
15 limitation.

16 Sec. 2. Original section 79-1223, Reissue Revised Statutes of
17 Nebraska, is repealed.

Legislative Changes Needed by the ESUs to Facilitate Capital Improvement and Building Needs

(Proposed amendment language shown as underlined or ~~strikeout~~)

1. **Amend Existing ESU statute §79-1223 or Adopt New ESU statute §79-1223.01 to permit same**

Option #1

(Addition to existing statute)

79-1223. Educational service units; real estate; personal property; services; purchase; lease; bids.

(1) In order to carry out the purposes provided in section 79-1204, educational service units may construct, purchase, lease, or lease-purchase buildings, facilities, real estate, equipment, supplies, services, and personal property for their own use. Educational service units may, either individually or collectively, purchase, lease, lease-purchase, or act as purchase agent for administrative and instructional supplies, instructional equipment, instructional services, and personal property for resale only to educational entities. When an educational service unit advertises for bids for administrative or instructional supplies, instructional equipment, instructional services, and personal property, acceptance of any bid submitted to the educational service unit shall obligate the educational service unit to award the contract in accordance with the plans and specifications and in the quantities set forth in the bid documents.

(2) In addition to any other borrowing powers provided for by law, an educational service unit shall have the power to issue its negotiable bonds in connection with any project or transaction under subsection (1) of this section. Such bonds may be issued after the educational service unit has conducted a public hearing on the issuance of bonds. Notice of such public hearing shall be given by publication in a newspaper of general circulation within the territory of the qualified public agency by at least one publication occurring not less than ten days prior to the time of hearing. After the public hearing, the governing body of the educational service unit may proceed to adopt a bond measure authorizing bonds.

Option #2

(Proposed new statute)

79-1223.01. Educational service units; special fund for construction, sites and buildings; levy of taxes.

In order to carry out the purposes provided in section 79-1204, educational service units may establish a special fund for purposes of acquiring, constructing, purchasing, leasing, or lease-purchasing new or existing buildings, facilities, real estate, and other capital improvements, including the erection, alteration, equipping, and furnishing of same and for no other purpose. The fund shall be established from the proceeds of an annual levy, to be determined by the educational service unit board, of not to exceed one cent on each one hundred dollars upon the taxable value of all taxable property in the educational service unit which shall be in addition to any other taxes authorized to be levied for educational service unit purposes. Such tax shall be levied and collected as are other taxes for educational service unit purposes. The levy pursuant to this section shall be in addition to any other constitutional, statutory, or educational service unit levy or spending limitation.

2. Amend §§13-2901 - 13-2914 to allow ESUs to utilize the Political Subdivisions Construction Alternatives Act.

13-2903. Terms, defined.

For purposes of the Political Subdivisions Construction Alternatives Act:

* * *

(7) Political subdivision means a city, village, county, school district, educational service unit, community college, or state college;

* * * *

3. Amend the §79-10,110 to include ESUs as follows: Would allow ESUs to levy up to 1 cent for capital improvements or buildings

79-10,110. Health and safety modifications, qualified zone academy, or American Recovery and Reinvestment Act of 2009 purpose; school board; powers and duties; hearing; tax levy authorized; issuance of bonds authorized.

(1) After making a determination that an actual or potential environmental hazard or accessibility barrier exists, that a life safety code violation exists, or that expenditures are needed for indoor air quality or mold abatement and prevention within the school, buildings or grounds under its control, a school or educational service unit board may make and deliver to the county clerk of such county in which any part of the school district or educational service unit is situated, not later than the date provided in section 13-508, an itemized estimate of the amounts necessary to be expended for the abatement of such environmental hazard, for accessibility barrier elimination, or for modifications for life safety code violations, indoor air quality, or mold abatement and prevention in such school, buildings or grounds. The board shall designate the particular environmental hazard abatement project, accessibility barrier elimination project, or modification for life safety code violations, indoor air quality, or mold abatement and prevention for which the tax levy provided for by this section will be expended, the period of years, which shall not exceed twenty ~~ten~~ years, for which the tax will be levied for such project, and the estimated amount of the levy for each year of the period based on the taxable valuation of the district at the time of issuance.

(2) After a public hearing, a school board may undertake any qualified capital purpose in any qualified zone academy under its control and may levy a tax as provided in this section to repay a qualified zone academy bond issued for such undertaking. The board shall designate: (a) The particular qualified capital purpose for which the qualified zone academy bond was issued and for which the tax levy provided for by this section will be expended; (b) the period of years for which the tax will be levied to repay such qualified zone academy bond, not exceeding the maturity term for such qualified zone academy bond established pursuant to federal law or, for any such bond issued prior to May 20, 2009, fifteen years; and (c) the estimated amount of the levy for each year of the period based on the taxable valuation of the district at the time of issuance. The hearing required by this subsection shall be held only after notice of such hearing has been published for three consecutive weeks prior to the hearing in a legal newspaper published or of general circulation in the school district.

(3) After a public hearing, a school board may undertake any American Recovery and Reinvestment Act of 2009 purpose and may levy a tax to repay any American Recovery and Reinvestment Act of 2009 bond issued for such undertaking. The board shall designate: (a) The American Recovery and Reinvestment Act of 2009 purpose for which the American Recovery and Reinvestment Act of 2009 bond will be issued and for which the tax levy provided by this section will be expended; (b) the period of years for which the tax will be levied to repay such American Recovery and Reinvestment Act of 2009 bond, not exceeding the maturity term for the type of American Recovery and Reinvestment Act of 2009 bond established pursuant to federal law or, if no such term is established, thirty years; and (c) the estimated amount of the levy for each year of such period based on the taxable valuation of the district at the time of issuance. Prior to the public hearing, the school board shall prepare an itemized estimate of the amounts necessary to be expended for the American Recovery and Reinvestment Act of 2009 purpose. The hearing required by this subsection shall be held only after notice of such hearing has been published for three consecutive weeks prior to the hearing in a legal newspaper published or of general circulation in the school district.

(4) The board may designate more than one project under subsection (1) of this section, more than one qualified capital purpose under subsection (2) of this section, or more than one American Recovery and Reinvestment Act of 2009 purpose under subsection (3) of this section and levy a tax pursuant to this section for each such project, qualified capital purpose, or American Recovery and Reinvestment Act of 2009 purpose, concurrently or consecutively, as the case may be, if the aggregate levy in each year and the duration of each such levy will not exceed the limitations specified in this section. Each levy for a project, a qualified capital purpose, or an American Recovery and Reinvestment Act of 2009 purpose which is authorized by this section may be imposed for such duration as the board specifies, notwithstanding the contemporaneous existence or subsequent imposition of any other levy for another project, qualified capital purpose, or American Recovery and Reinvestment Act of 2009 purpose imposed pursuant to this section and notwithstanding the subsequent issuance by the district of bonded indebtedness payable from its general fund levy.

(5) The county clerk shall levy such taxes, not to exceed five and one-fifth cents per one hundred dollars of taxable valuation for Class II, III, IV, V, and VI districts, [one cent per one hundred dollars of taxable valuation for educational service units](#), and not to exceed the limits set for Class I districts in section 79-10,124, on the taxable property of the district [or educational service unit](#) necessary to (a) cover [and repay](#) the environmental hazard abatement or accessibility barrier elimination project costs [or bonds](#), or costs [or bonds](#) for modification for life safety code violations, indoor air quality, or mold abatement and prevention itemized by the board pursuant to subsection (1) of this section and (b) repay any qualified zone academy bonds or American Recovery and Reinvestment Act of 2009 bonds pursuant to subsection (2) or (3) of this section. Such taxes shall be collected by the county treasurer at the same time and in the same manner as county taxes are collected and when collected shall be paid to the treasurer of the district [or educational service unit](#) and used to cover the project costs.

(6) If such [school](#) board operates grades nine through twelve as part of an affiliated school system, it shall designate the fraction of the project or undertaking to be conducted for the benefit of grades nine through twelve. Such fraction shall be raised by a levy placed upon all of the taxable value of all taxable property in the affiliated school system pursuant to subsection (2) of section 79-1075. The balance of the project or undertaking to be conducted for the benefit of grades kindergarten

through eight shall be raised by a levy placed upon all of the taxable value of all taxable property in the district which is governed by such [school](#) board. The combined rate for both levies in the high school district, to be determined by such board, shall not exceed five and one-fifth cents on each one hundred dollars of taxable value.

(7) Each board which submits an itemized estimate shall establish an environmental hazard abatement and accessibility barrier elimination project account, a life safety code modification project account, an indoor air quality project account, or a mold abatement and prevention project account, each board which undertakes a qualified capital purpose shall establish a qualified capital purpose undertaking account, within the qualified capital purpose undertaking fund, and each board which undertakes an American Recovery and Reinvestment Act of 2009 purpose shall establish an American Recovery and Reinvestment Act of 2009 purpose undertaking account. Taxes collected pursuant to this section shall be credited to the appropriate account to cover the project or undertaking costs. Such estimates may be presented to the county clerk and taxes levied accordingly.

(8) For purposes of this section:

(a) Abatement includes, but is not limited to, any inspection and testing regarding environmental hazards, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, or eliminate environmental hazards, any removal or encapsulation of environmentally hazardous material or property, any related restoration or replacement of material or property, any related architectural and engineering services, and any other action to reduce or eliminate environmental hazards in the school buildings or on the school grounds under the board's control, except that abatement does not include the encapsulation of any material containing more than one percent friable asbestos;

(b) Accessibility barrier means anything which impedes entry into, exit from, or use of any building or facility by all people;

(c) Accessibility barrier elimination includes, but is not limited to, inspection for and removal of accessibility barriers, maintenance to reduce, lessen, put an end to, diminish, control, dispose of, or eliminate accessibility barriers, related restoration or replacement of facilities or property, any related architectural and engineering services, and any other action to eliminate accessibility barriers in the school buildings or grounds under the board's control;

(d) American Recovery and Reinvestment Act of 2009 bond means any type or form of bond permitted by the federal American Recovery and Reinvestment Act of 2009, as such act or bond may be amended and supplemented, including the federal Hiring Incentives to Restore Employment Act, as amended and supplemented, for use by schools, except qualified zone academy bonds;

(e) American Recovery and Reinvestment Act of 2009 purpose means any construction of a new public school facility or the acquisition of land on which such a facility is to be constructed or any expansion, rehabilitation, modernization, renovation, or repair of any existing school facilities financed in whole or in part with an American Recovery and Reinvestment Act of 2009 bond;

(f) Environmental hazard means any contamination of the air, water, or land surface or subsurface caused by any substance adversely affecting human health or safety if such substance has been declared hazardous by a federal or state statute, rule, or regulation;

(g) Modification for indoor air quality includes, but is not limited to, any inspection and testing regarding indoor air quality, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, or eliminate indoor air quality problems, any related restoration or replacement of material or related architectural and engineering services, and any other action to reduce or eliminate indoor air quality problems or to enhance air quality conditions in new or existing school buildings or on school grounds under the control of a school board;

(h) Modification for life safety code violation includes, but is not limited to, any inspection and testing regarding life safety codes, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, or eliminate life safety hazards, any related restoration or replacement of material or property, any related architectural and engineering services, and any other action to reduce or eliminate life safety hazards in new or existing school buildings or on school grounds under the control of a school board;

(i) Modification for mold abatement and prevention includes, but is not limited to, any inspection and testing regarding mold abatement and prevention, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, or eliminate mold problems, any related restoration or replacement of material or related architectural and engineering services, and any other action to reduce or eliminate mold problems or to enhance air quality conditions in new or existing school buildings or on school grounds under the control of a school board;

(j) Qualified capital purpose means (i) rehabilitating or repairing the public school facility in which the qualified zone academy is established or (ii) providing equipment for use at such qualified zone academy;

(k) Qualified zone academy has the meaning found in (i) 26 U.S.C. 1397E(d)(4), as such section existed on October 3, 2008, for qualified zone academy bonds issued on or before such date, and (ii) 26 U.S.C. 54E(d)(1), as such section existed on October 4, 2008, for qualified zone academy bonds issued on or after such date;

(l) Qualified zone academy allocation means the allocation of the qualified zone academy bond limitation by the State Department of Education to the qualified zone academies pursuant to (i) 26 U.S.C. 1397E(e)(2), as such section existed on October 3, 2008, for allocations relating to qualified zone academy bonds issued on or before such date, and (ii) 26 U.S.C. 54E(c)(2), as such section existed on October 4, 2008, for allocations relating to qualified zone academy bonds issued on or after such date; and

(m) Qualified zone academy bond has the meaning found in (i) 26 U.S.C. 1397E(d)(1), as such section existed on October 3, 2008, for such bonds issued on or before such date, and (ii) 26 U.S.C. 54E(a), as such section existed on and after October 4, 2008, for such bonds issued on or after such date, as such section or bonds may be amended or supplemented.

(9) Accessibility barrier elimination project costs includes, but is not limited to, inspection, maintenance, accounting, emergency services, consultation, or any other action to reduce or eliminate accessibility barriers.

(10)(a) For the purpose of paying amounts necessary for the abatement of environmental hazards, for accessibility barrier elimination, for modifications for life safety code violations, indoor air quality, or mold abatement and prevention, for a qualified capital purpose, or for an American Recovery and Reinvestment Act of 2009 purpose, the board may borrow money, establish a sinking fund, and issue bonds and other evidences of indebtedness of the district or educational service unit, which bonds and other evidences of indebtedness shall be secured by and payable from an irrevocable pledge by the district or educational service unit of amounts received in respect of the tax levy provided for by this section and any other funds of the district available therefor. Bonds issued for a qualified capital purpose or an American Recovery and Reinvestment Act of 2009 purpose shall be limited to the type or types of bonds authorized for each purpose in subsections (2) and (3) of this section, respectively. Bonds and other evidences of indebtedness issued by a district or educational service unit pursuant to this subsection shall not constitute a general obligation of the district or be payable from any portion of its general fund levy.

(b) A district may exceed the maximum levy of five and one-fifth cents per one hundred dollars of taxable valuation authorized by subsections (5) and (6) of this section in any year in which (i) the taxable valuation of the district is lower than the taxable valuation in the year in which the district last issued bonds pursuant to this section and (ii) such maximum levy is insufficient to meet the combined annual principal and interest obligations for all bonds issued pursuant to this section. The amount generated from a district's levy in excess of the maximum levy upon the taxable valuation of the district shall not exceed the combined annual principal and interest obligations for such bonds minus the amount generated by levying the maximum levy upon the taxable valuation of the district and minus any federal payments or subsidies associated with such bonds.

(11) The total principal amount of bonds for modifications to correct life safety code violations, for indoor air quality problems, for mold abatement and prevention, or for an American Recovery and Reinvestment Act of 2009 purpose which may be issued pursuant to this section shall not exceed the total amount specified in the itemized estimate described in subsections (1) through and ~~(35)~~ of this section.

(12) The total principal amount of qualified zone academy bonds which may be issued pursuant to this section for qualified capital purposes with respect to a qualified zone academy shall not exceed the qualified zone academy allocation granted to the board by the department. The total amount that may be financed by qualified zone academy bonds pursuant to this section for qualified purposes with respect to a qualified zone academy shall not exceed seven and one-half million dollars statewide in a single year. In any year that the Nebraska qualified zone academy allocations exceed seven and one-half million dollars for qualified capital purposes to be financed with qualified zone academy bonds issued pursuant to this section, (a) the department shall reduce such allocations proportionally such that the statewide total for such allocations equals seven and one-half million dollars and (b) the difference between the Nebraska allocation and seven and one-half million dollars shall be available to qualified zone academies for requests that will be financed with qualified zone academy bonds issued without the benefit of this section.

Nothing in this section directs the State Department of Education to give any preference to allocation requests that will be financed with qualified zone academy bonds issued pursuant to this section.

(13) The State Department of Education shall establish procedures for allocating bond authority to school boards as may be necessary pursuant to an American Recovery and Reinvestment Act of 2009 bond.

(14) After a public hearing, educational service units and members of boards of educational service units may undertake new construction facilities, or the acquisition of land on which such facilities are to be constructed or for any expansion, rehabilitation, modernization, renovation, or repair of any existing facilities under its control and may levy a tax and issue bonds for such undertaking pursuant to this section for a project, not to exceed one cent per one hundred dollars of taxable valuation on the taxable property of the educational service unit. Prior to the public hearing, the educational service unit board shall prepare an itemized estimate of the amounts necessary to be expended for the project or projects. The educational service unit board shall designate: (a) The particular project for which the bond was issued and for which the tax levy provided for by this section will be expended; (b) the period of years for which the tax will be levied to repay such bond, not exceeding the maximum term of twenty years; and (c) the amount of the levy for each year of the period. The hearing required by this subsection shall be held only after notice of such hearing has been published for three consecutive weeks prior to the hearing in a legal newspaper published or of general circulation in the education service unit region. Such taxes shall be collected by the county treasurers at the same time and in the same manner as other county taxes are collected and when collected shall be paid to the treasurer of the service unit and used to pay the project costs. The bonds to be issued under this subsection may consist of any type or form of bond and except as limited herein, shall be subject to the terms and conditions as determined by the educational service unit.

4. Amend §§72-2301-72-2308 the "Public Facilities Construction and Finance Act": This would allow ESUs to cooperate with other public entities to build joint use facilities, acquire technology, to bond and to levy up to 5% of their total expense budget to retire the bonds.

72-2301. Act, how cited.

Sections 72-2301 to 72-2308 shall be known and may be cited as the Public Facilities Construction and Finance Act.

72-2302. Purpose of act.

It is the purpose of the Public Facilities Construction and Finance Act to allow local governmental units which cooperate with other governmental units to issue bonds to finance joint projects which may be serviced by property taxes, regardless of the restrictions on the issuance of debt contained in other statutory provisions, home rule charters, or the limitations in section 77-3442, for the acquisition, construction, financing, operation, and ownership of (1) public buildings and related improvements to real estate, 21st Century Community Learning Centers or programs, recreational facilities and related improvements, flood control and storm water drainage, and street and road construction and improvements and (2) information technology for libraries operated by counties, municipalities, school districts, educational service units, and community colleges.

72-2303. Terms, defined.

For purposes of the Public Facilities Construction and Finance Act:

(1) Bond measure means a resolution or ordinance which authorizes bonds to be issued and sold in accordance with the act and which sets the terms of such bonds;

(2) Joint project means a project financed and operated by at least two or more qualified public agencies cooperating as a joint entity or joint public agency for (a) [the acquisition, construction, financing, operation or ownership of any real-estate, 21st Century Community Learning Centers or programs, or](#) any public building or buildings and related improvements to real estate, including parking facilities, any recreational facilities and related improvements to real estate, any flood control and storm water drainage, and any street and road construction and improvements and related fixtures and (b) [the use or purchase of any service or](#) item of hardware or software used in providing for the delivery of information [or distance learning](#), including the purchasing of upgrades or related improvements [or services](#) to information technology [or distance learning opportunities](#) for the operation of libraries operated by counties, municipalities, school districts, educational service units, and community colleges; and

(3) Qualified public agency means any city, village, municipal county, community college, county, educational service unit, rural or suburban fire protection district, hospital district, school district, [the Educational Service Unit Coordinating Council](#), and sanitary and improvement district.

72-2304. Bonds authorized; public hearing; notice; election, when required; remonstrance petition.

(1) In addition to any other borrowing powers provided for by law, a qualified public agency shall have the power to issue its negotiable bonds [or to issue its negotiable bonds to](#) any joint entity as defined in section 13-803 or to any joint public agency as defined in section 13-2503 in connection with any joint project which is to be owned, operated, or financed by the joint entity or joint public agency for the benefit of the qualified public agency. ~~The bonds may be issued only if the second largest participant in the joint project has a financial contribution in the joint project of at least twenty five percent of the debt service.~~ Such bonds may be issued after the qualified public agency has conducted a public hearing on the issuance of bonds. Notice of such public hearing shall be given by publication in a newspaper of general circulation within the territory of the qualified public agency by at least one publication occurring not less than ten days prior to the time of hearing. After the public hearing, the governing body of the qualified public agency may proceed to adopt a bond measure authorizing bonds.

(2) Notice of any such bond measure shall be given by publication of notice of intention to issue bonds in a newspaper of general circulation within the territory of the qualified public agency at least twice after the adoption of the bond measure. Such publications shall be at least [one](#) ~~three~~ weeks apart. The notice shall state:

- (a) The name of the qualified public agency;
- (b) The purpose of the issue;
- (c) The principal amount of the issue;
- (d) The amount of annual debt service payment anticipated for the bonds, which may be stated as an approximation or estimate, and the anticipated duration for such debt service payments; and
- (e) The time and place where a copy of the form of the bond measure may be examined for a period of at least thirty days.

(3) No election shall be required prior to the issuance of bonds under the Public Facilities Construction and Finance Act unless, within sixty days after the first publication of the notice of intention to issue bonds, a remonstrance petition against the issuance of bonds is filed with the clerk or secretary of the qualified public agency. Such remonstrance petition shall be signed by registered voters of the qualified public agency equal in number to at least five percent of the number of registered voters of the qualified public agency at the time the remonstrance petition is filed or at least the number of signatures listed in subsection (5) of this section for the applicable qualified public agency, whichever is less. If a remonstrance petition with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the qualified public agency at a general election or a special election called for the purpose of approving the bonds proposed to be issued. Any joint project for which bonds are issued in accordance with the procedures of the act shall not require any other approval or proceeding by the governing body or the voters of the qualified public agency.

(4) No election shall be required for any qualified public agency not issuing bonds to participate in such joint project unless, within sixty days after the governing body of the qualified public agency adopts the measure approving the interlocal or cooperative agreement related to the joint project, a remonstrance petition is filed with the clerk or secretary of the qualified public agency. Such remonstrance petition shall be signed by registered voters of the qualified public agency equal in number to at least five percent of the number of registered voters of the qualified public agency at the time the remonstrance petition is filed or at least the number of signatures listed in subsection (5) of this section for the applicable qualified public agency, whichever is less. If a remonstrance petition with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the qualified public agency at a general election or a special election called for the purpose of approving the interlocal or cooperative agreement related to the joint project.

(5) The chart in this subsection provides the alternative number of signatures of registered voters of a qualified public agency which may be used to submit a remonstrance petition under subsection (3) or (4) of this section. The classification of counties in section 23-1114.01 applies for purposes of this section.

Qualified Public Agency of Registered Voters	Number of Signatures
City of the Metropolitan Class	1500
City of the Primary Class	1000
City of the First Class	750
City of the Second Class	250
Villages	50
Municipal County	1500
Class 7 County	1500
Class 6 County	1000
Class 5 County	750
Class 4 County	500
Class 3 County	250
Class 2 County	100

Class I County	50
Class VI School District	250
Class V School District	1500
Class IV School District	1000
Class III School District	500
Class II School District	250
Class I School District	250
Educational Service Unit	250
Community College Area	1500
Fire Protection District	500
Hospital District	500
Sanitary and Improvement District	500

72-2305. Public buildings, recreational facilities, drainage, streets, and roads; bonds; amount authorized.

For joint projects described in subdivision (2)(a) of section 72-2303, the principal amount of bonds which may be issued by a qualified public agency under the Public Facilities Construction and Finance Act shall not exceed five million dollars as to the total principal amount of such bonds which may be outstanding at any time, and the annual amounts due by reason of such bonds from each qualified public agency shall not exceed ten ~~five~~ percent of each qualified public agencies total budget of expenditures ~~the restricted funds of the obligated qualified public agency~~ in the year prior to issuance. The principal amount of bonds of qualified public agencies in the aggregate issued for any one such joint project shall not exceed five million dollars.

72-2306. Information technology for libraries; bonds; amount authorized.

For joint projects described in subdivision (2)(b) of section 72-2303, the principal amount of bonds which may be issued by a qualified public agency under the Public Facilities Construction and Finance Act shall not exceed two million ~~hundred fifty thousand~~ dollars for cities of the metropolitan and primary classes, one million five hundred thousand dollars for counties, cities of the first class, school districts, educational service units, and community colleges, and fifty thousand dollars for cities of the second class and villages, as to the total principal amount of such bonds which may be outstanding at any time, and the annual amounts due by reason of such bonds from each qualified public agency shall not exceed ten ~~five~~ percent of each qualified public agencies total budget of expenditures ~~the restricted funds of the obligated qualified public agency~~ in the year prior to issuance. The principal amount of bonds of a qualified public agency in the aggregate issued for any one such joint project shall not exceed two million ~~hundred and fifty thousand~~ dollars for cities of the metropolitan and primary classes and one million five hundred thousand dollars for counties, cities of the first class, cities of the second class, villages, school districts, educational service units, and community colleges.

72-2307. Taxes authorized.

Any qualified public agency which has issued bonds in accordance with the Public Facilities Construction and Finance Act shall levy and collect taxes on all the taxable property within the territory of the qualified public agency, in addition to all other taxes, for the purpose of paying the principal and interest of such bonds as the principal and interest become due. Taxes levied for such purposes shall not be subject to the limitations in section 77-3442. The levying of taxes to pay such bonds for any county shall be subject to the constitutional limitation upon levying taxes by a county.

72-2308. Act; how construed; bonds; applicability of other provisions.

The Public Facilities Construction and Finance Act shall be independent of and in addition to any other provisions of the laws of the State of Nebraska or provisions of home rule charters, and bonds may be issued under the act for any purpose authorized in the act even though other provisions of the laws of the State of Nebraska or provisions of home rule charters may provide for the issuance of bonds for the same or similar purposes. The act shall not be considered amendatory of or limited by any other provisions of the laws of the State of Nebraska or provisions of home rule charters, and bonds may be issued under the act without complying with the restrictions or requirements of any other provisions of the laws of the State of Nebraska or without complying with the restrictions or requirements of home rule charters. Nothing in the act shall prohibit or limit the issuance of bonds in accordance with the provisions of other applicable laws of the State of Nebraska or of home rule charters if the governing body determines to issue such bonds under such other laws or charter, or otherwise limit the provisions of any home rule charter.

5. Amend §79-1245 as follows: needed to give the Educational Service Unit Coordinating Council the authority to construct, purchase, lease and sell real property

79-1245. Educational Service Unit Coordinating Council; created; composition; funding; powers.

(1) The Educational Service Unit Coordinating Council is created as of July 1, 2008. On such date the assets and liabilities of the Distance Education Council shall be transferred to the Educational Service Unit Coordinating Council. The council shall be composed of one administrator from each educational service unit. The council shall be funded from two percent of the core services and technology infrastructure funding appropriated pursuant to section 79-1241.03, appropriations by the Legislature for distance education, and fees established for services provided to educational entities.

(2) The council is a political subdivision and a public body corporate and politic of this state, exercising public powers separate from the participating educational service units. The council shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a political subdivision and a public body corporate and politic but shall not have taxing power.

(3) The council shall have power (a) to sue and be sued, (b) to have a seal and alter the same at will or to dispense with the necessity thereof, (c) to make and execute contracts and other instruments, (d) to receive, hold, and use money to construct, modify, purchase, sell, or lease ~~and~~ real and personal property, and other capital improvements, (e) to hire and compensate employees, including certificated employees, (f) to act as a fiscal agent for statewide initiatives being implemented by employees of one or more educational service units, and (g) from time to time, to make, amend, and repeal bylaws, rules, and regulations not inconsistent with sections 79-1245 to 79-1249. Such power shall only be used as necessary or convenient to carry out and effectuate the powers and purposes of the council.

6. Amend the bond law §10-712 to include ESUs as follows:

10-712. School district, defined.

The phrase school district, as used in sections 10-702 to 10-719 ~~10-711~~, is hereby declared to mean and include educational service units and the phrase school board or board of education is hereby

declared to mean and include board members of educational service units. The phrase school district as used in section 10-711, is hereby declared to mean the school district or educational service unit as it existed immediately prior to and at the time of the issuance of any bonds by said school district or educational service unit, including all lands, property and inhabitants contained in said school district or educational service unit at the time of the issuance of any bonds, and all portions of said district or educational service unit subsequently separated from said district or educational service unit, whether by the formation of a new district or educational service unit or by any change of boundaries of the original district or educational service unit.

7. Amend §§66-1062 – 66-1066 of the “Energy Conservation Law” to include ESUs as follows:

See attached REQ 00119 by including ESUs in definition of “Governmental unit”.

Talking Points Relative to Recommended Changes in Legislation Needed For ESUs to Utilize the Design-Build Process and Levy and Issue Bonds for Capital Improvement and Building Needs

November 20, 2014

- The only current provision for Educational Service Units in Nebraska to finance facilities is to lease-purchase as provided in Nebraska §79-1223. When ESU 6 investigated using this provision to fund its \$4 million needed addition, we found that we could not pay the annual lease-purchase payment that was estimated to be \$400,000, (\$33,333.00 per month). All of our ever-decreasing state core services aid and our 1.5 cent local property tax levy go to funding mandated core services (technology, professional development and instructional materials) for our 16 districts. Under the current ESU core service funding formula, ESU 6 core services funding decreased 48.82% over the previous 5 years that the formula has been in place (\$578,607 2008 to fiscal year 2014, \$296,109.17).
- Currently there is no practical provision for the 15 multidistrict ESUs to finance needed facilities under Nebraska Law, (only lease-purchase, with no levy extending authority to allow payment). Only those few ESUs that have large budget cash contingencies have been able to build and meet growth of service and accommodation needs under current law.
- Amending the Qualified Capital Purpose Undertaking Fund (QCPUF) to include the ESUs would allow those whose facilities do not meet accessibility and/or environmental quality standards requirements to fund improvements that address these issues. ESU 6 facilities do not meet the accessibility requirements of either the Vocational Rehabilitation Act of 1974 or the Americans with Disabilities Act of 1990.
- Amending the Public Facilities Construction and Finance Act §72-2304-§72-2306 would make it practicable for the ESUs with capital improvement and facility needs to partner with another public entity to more efficiently meet common space or improvement needs in the most efficient and cost effective manner with diminished impact and lower cost for taxpayers, (it also encourages the sharing of limited resources across multiple public agencies). ESU 6 would like to partner with the City of Milford that also has critical facility needs.
- ESU 6 employed the services of Jim Gessford from the Perry Law Firm to draft amendments to these various existing statutes (attached) that would make it practicable for the 15 multi-district ESUs (the 2 single district ESUs already can build

under the current laws that accommodate the public school districts of the state) to fund capital improvement and building needs.

In summation, it is a great obstacle to efficient and effective practice for ESUs that Nebraska created intermediate education agencies 49 years ago, continually redefined and expanded their responsibilities and yet provided no practicable avenue for funding facilities and needed large \$ capital improvements. Immediate action is needed to give the ESUs the ability to safely and efficiently accommodate the myriad of support services needed by the school districts, educators and learners of our state.

Talking Points Relative to Recommended Changes in Legislation Needed For ESUs to Address Capital Improvement and Building Needs

November 20, 2014

- The only current provision for Educational Service Units in Nebraska to finance facilities is to lease-purchase as provided in Nebraska §79-1223. When ESU 6 investigated using this provision to fund its \$4 million needed addition, we found that we could not pay the annual lease-purchase payment that was estimated to be \$400,000, (\$33,333.00 per month). All of our ever-decreasing state core services aid and our 1.5 cent local property tax levy go to funding mandated core services (technology, professional development and instructional materials) for our 16 districts. Under the current ESU core service funding formula, ESU 6 core services funding decreased 48.82% over the previous 5 years that the formula has been in place (\$578,607 2008 to fiscal year 2014, \$296,109.17).
- Currently there is no practical provision for the 15 multidistrict ESUs or the Educational Service Unit Coordinating Council to acquire or finance needed facilities and improvements under Nebraska Law, (only lease-purchase for ESUs, with no levy extending authority to allow payment). Only those few ESUs that have large budget cash contingencies have been able to build and meet growth of service and accommodation needs under current law.
- ESU 6 employed the services of Jim Gessford from the Perry Law Firm to draft some optional amendments to various existing statutes and a new statute as potential options (attached) that would make it more practicable for the 15 multi-district ESUs and the Educational Service Unit Coordinating Council to fund capital improvement and building needs. Seven options or alternatives are presented for consideration:
 1. Amend Existing ESU statute §79-1223 or Adopt New ESU statute §79-1223.01
 2. Amend §§13-2901-13-2914 to allow ESUs to utilize the Political Subdivisions Construction Alternatives Act.
 3. Amend the §79-10,110 to include ESUs
 4. Amend §§72-2301-72-2308 the "Public Facilities Construction and Finance Act"
 5. Amend §79-1245 to give authority to the Educational Service Unit Coordinating Council
 6. Amend the bond law §10-712 to include ESUs
 7. Amend §§66-1062–66-1066 of the "Energy Conservation Law" to include ESUs
- These options would allow those whose facilities do not meet accessibility and/or environmental quality standards requirements to fund improvements that address these issues. ESU 6 facilities do not meet the accessibility requirements of either the Vocational Rehabilitation Act of 1974 or the Americans with Disabilities Act of 1990.
- Amending the Public Facilities Construction and Finance Act §72-2304-§72-2306 would make it practicable for the ESUs with capital improvement and facility needs to partner with another public entity to more efficiently meet common space or improvement needs in the most efficient and cost effective manner with diminished impact and lower cost for taxpayers, (it also encourages the sharing of limited resources across multiple public agencies). ESU 6 would like to partner with the City of Milford that also has critical facility needs.

In summation, it is a great obstacle to efficient and effective practice for ESUs that Nebraska created intermediate education agencies 49 years ago, continually redefined and expanded their responsibilities and yet provided no practicable avenue for funding facilities and needed large \$ capital improvements. Immediate action is needed to give the ESUs the ability to safely and efficiently accommodate the myriad of support services needed by the school districts, educators and learners of our state.