

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 930

FINAL READING

Introduced by Scheer, 19; Ebke, 32; Fox, 7; Hilkemann, 4; Krist, 10;
Kuehn, 38; McCollister, 20; Mello, 5; Morfeld, 46; Seiler,
33.

Read first time January 12, 2016

Committee: Education

- 1 A BILL FOR AN ACT relating to education; to amend sections 79-759 and
- 2 79-760.03, Reissue Revised Statutes of Nebraska, and section 9-812,
- 3 Revised Statutes Supplement, 2015; to change provisions relating to
- 4 statewide assessments and college admission testing as prescribed;
- 5 to provide powers and duties for the State Board of Education as
- 6 prescribed; to harmonize provisions; and to repeal the original
- 7 sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 9-812, Revised Statutes Supplement, 2015, is
2 amended to read:

3 9-812 (1) All money received from the operation of lottery games
4 conducted pursuant to the State Lottery Act in Nebraska shall be credited
5 to the State Lottery Operation Trust Fund, which fund is hereby created.
6 All payments of the costs of establishing and maintaining the lottery
7 games shall be made from the State Lottery Operation Cash Fund. In
8 accordance with legislative appropriations, money for payments for
9 expenses of the division shall be transferred from the State Lottery
10 Operation Trust Fund to the State Lottery Operation Cash Fund, which fund
11 is hereby created. All money necessary for the payment of lottery prizes
12 shall be transferred from the State Lottery Operation Trust Fund to the
13 State Lottery Prize Trust Fund, which fund is hereby created. The amount
14 used for the payment of lottery prizes shall not be less than forty
15 percent of the dollar amount of the lottery tickets which have been sold.

16 (2) A portion of the dollar amount of the lottery tickets which have
17 been sold on an annualized basis shall be transferred from the State
18 Lottery Operation Trust Fund to the Education Innovation Fund, the
19 Nebraska Opportunity Grant Fund, the Nebraska Education Improvement Fund,
20 the Nebraska Environmental Trust Fund, the Nebraska State Fair Board, and
21 the Compulsive Gamblers Assistance Fund as provided in subsection (3) of
22 this section. The dollar amount transferred pursuant to this subsection
23 shall equal the greater of (a) the dollar amount transferred to the funds
24 in fiscal year 2002-03 or (b) any amount which constitutes at least
25 twenty-two percent and no more than twenty-five percent of the dollar
26 amount of the lottery tickets which have been sold on an annualized
27 basis. To the extent that funds are available, the Tax Commissioner and
28 director may authorize a transfer exceeding twenty-five percent of the
29 dollar amount of the lottery tickets sold on an annualized basis.

30 (3) Of the money available to be transferred to the Education
31 Innovation Fund, the Nebraska Opportunity Grant Fund, the Nebraska

1 Education Improvement Fund, the Nebraska Environmental Trust Fund, the
2 Nebraska State Fair Board, and the Compulsive Gamblers Assistance Fund:

3 (a) The first five hundred thousand dollars shall be transferred to
4 the Compulsive Gamblers Assistance Fund to be used as provided in section
5 9-1006;

6 (b) Beginning July 1, 2016, forty-four and one-half percent of the
7 money remaining after the payment of prizes and operating expenses and
8 the initial transfer to the Compulsive Gamblers Assistance Fund shall be
9 transferred to the Nebraska Education Improvement Fund;

10 (c) Through June 30, 2016, nineteen and three-fourths percent of the
11 money remaining after the payment of prizes and operating expenses and
12 the initial transfer to the Compulsive Gamblers Assistance Fund shall be
13 transferred to the Education Innovation Fund;

14 (d) Through June 30, 2016, twenty-four and three-fourths percent of
15 the money remaining after the payment of prizes and operating expenses
16 and the initial transfer to the Compulsive Gamblers Assistance Fund shall
17 be transferred to the Nebraska Opportunity Grant Fund;

18 (e) Forty-four and one-half percent of the money remaining after the
19 payment of prizes and operating expenses and the initial transfer to the
20 Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska
21 Environmental Trust Fund to be used as provided in the Nebraska
22 Environmental Trust Act;

23 (f) Ten percent of the money remaining after the payment of prizes
24 and operating expenses and the initial transfer to the Compulsive
25 Gamblers Assistance Fund shall be transferred to the Nebraska State Fair
26 Board if the most populous city within the county in which the fair is
27 located provides matching funds equivalent to ten percent of the funds
28 available for transfer. Such matching funds may be obtained from the city
29 and any other private or public entity, except that no portion of such
30 matching funds shall be provided by the state. If the Nebraska State Fair
31 ceases operations, ten percent of the money remaining after the payment

1 of prizes and operating expenses and the initial transfer to the
2 Compulsive Gamblers Assistance Fund shall be transferred to the General
3 Fund; and

4 (g) One percent of the money remaining after the payment of prizes
5 and operating expenses and the initial transfer to the Compulsive
6 Gamblers Assistance Fund shall be transferred to the Compulsive Gamblers
7 Assistance Fund to be used as provided in section 9-1006.

8 (4)(a) The Education Innovation Fund is created. At least seventy-
9 five percent of the lottery proceeds allocated to the Education
10 Innovation Fund shall be available for disbursement.

11 (b) For fiscal year 2014-15, the Education Innovation Fund shall be
12 allocated, after administrative expenses, as follows: (i) The first one
13 million two hundred thousand dollars shall be transferred to the
14 Excellence in Teaching Cash Fund to fund the Excellence in Teaching Act;
15 (ii) the next allocation shall be distributed to local systems as grants
16 for approved accelerated or differentiated curriculum programs for
17 students identified as learners with high ability pursuant to section
18 79-1108.02 in an aggregated amount up to the amount distributed in the
19 prior fiscal year for such purposes increased by the basic allowable
20 growth rate pursuant to section 79-1025; (iii) the next one million eight
21 hundred fifty thousand dollars shall be allocated to early childhood
22 education grants awarded by the State Department of Education pursuant to
23 section 79-1103; (iv) the next one million dollars shall be transferred
24 to the Early Childhood Education Endowment Cash Fund for use pursuant to
25 section 79-1104.02; (v) the next two hundred thousand dollars shall be
26 used to provide grants to establish bridge programs pursuant to sections
27 79-1189 to 79-1195; (vi) the next ten thousand dollars shall be used to
28 fund the Interstate Compact on Educational Opportunity for Military
29 Children; (vii) the next two million dollars shall be allocated for
30 distance education equipment and incentives pursuant to sections 79-1336
31 and 79-1337; (viii) the next one million dollars shall be transferred to

1 the School District Reorganization Fund; (ix) up to the next one hundred
2 forty-five thousand dollars shall be used by the State Department of
3 Education to implement section 79-759; and (x) the next three hundred
4 thirty-five thousand dollars shall be allocated to local systems as
5 grants awarded by the State Department of Education to assist schools in
6 evaluating and improving career education programs to align such programs
7 with the state's economic and workforce needs. Except for funds
8 transferred to the School District Reorganization Fund, the Early
9 Childhood Education Endowment Cash Fund, or the department for early
10 childhood education grants pursuant to section 79-1103, no funds received
11 as allocations from the Education Innovation Fund pursuant to this
12 subdivision may be obligated for payment to be made after June 30, 2016,
13 and such funds received as transfers or allocations from the Education
14 Innovation Fund that have not been used for their designated purpose as
15 of such date shall be transferred to the Nebraska Education Improvement
16 Fund on or before August 1, 2016.

17 (c) For fiscal year 2015-16, the Education Innovation Fund shall be
18 allocated, after administrative expenses, as follows: (i) The first one
19 million two hundred thousand dollars shall be transferred to the
20 Excellence in Teaching Cash Fund to fund the Excellence in Teaching Act;
21 (ii) the next allocation shall be distributed to local systems as grants
22 for approved accelerated or differentiated curriculum programs for
23 students identified as learners with high ability pursuant to section
24 79-1108.02 in an aggregated amount up to the amount distributed in the
25 prior fiscal year for such purposes increased by the basic allowable
26 growth rate pursuant to section 79-1025; (iii) the next one million nine
27 hundred fifty thousand dollars shall be allocated to early childhood
28 education grants awarded by the State Department of Education pursuant to
29 section 79-1103; (iv) the next one million dollars shall be transferred
30 to the Early Childhood Education Endowment Cash Fund for use pursuant to
31 section 79-1104.02; (v) the next ten thousand dollars shall be used to

1 fund the Interstate Compact on Educational Opportunity for Military
2 Children; (vi) the next two million five hundred thousand dollars shall
3 be allocated for distance education equipment and incentives pursuant to
4 sections 79-1336 and 79-1337; (vii) the next one million dollars shall be
5 transferred to the School District Reorganization Fund; (viii) up to the
6 next one hundred forty-five thousand dollars shall be used by the State
7 Department of Education to implement section 79-759; and (ix) of the
8 amount remaining, (A) three million dollars shall be retained in the
9 Education Innovation Fund to transfer to the Nebraska Education
10 Improvement Fund on June 30, 2016, and (B) the remaining amount shall be
11 allocated to local systems as grants awarded by the State Department of
12 Education to assist schools in evaluating and improving career education
13 programs to align such programs with the state's economic and workforce
14 needs. Except for funds transferred to the School District Reorganization
15 Fund, the Early Childhood Education Endowment Cash Fund, or the
16 department for early childhood education grants pursuant to section
17 79-1103, no funds received as allocations from the Education Innovation
18 Fund pursuant to this subdivision may be obligated for payment to be made
19 after June 30, 2016, and such funds received as transfers or allocations
20 from the Education Innovation Fund that have not been used for their
21 designated purpose as of such date shall be transferred to the Nebraska
22 Education Improvement Fund on or before August 1, 2016.

23 (d) The Education Innovation Fund terminates on June 30, 2016. Any
24 money in the fund on such date shall be transferred to the Nebraska
25 Education Improvement Fund on such date.

26 (5) The Nebraska Education Improvement Fund is created. The fund
27 shall consist of money transferred pursuant to subsections (3) and (4) of
28 this section, money transferred pursuant to section 85-1920, and any
29 other funds appropriated by the Legislature. The fund shall be allocated,
30 after actual and necessary administrative expenses, as provided in this
31 section for fiscal years 2016-17 through 2020-21. A portion of each

1 allocation may be retained by the agency to which the allocation is made
2 or the agency administering the fund to which the allocation is made for
3 actual and necessary expenses incurred by such agency for administration,
4 evaluation, and technical assistance related to the purposes of the
5 allocation, except that no amount of the allocation to the Nebraska
6 Opportunity Grant Fund may be used for such purposes. On or before
7 December 31, 2019, the Education Committee of the Legislature shall
8 electronically submit recommendations to the Clerk of the Legislature
9 regarding how the fund should be allocated to best advance the
10 educational priorities of the state for the five-year period beginning
11 with fiscal year 2021-22. For fiscal year 2016-17, an amount equal to ten
12 percent of the revenue allocated to the Education Innovation Fund and to
13 the Nebraska Opportunity Grant Fund for fiscal year 2015-16 shall be
14 retained in the Nebraska Education Improvement Fund. For fiscal years
15 2017-18 through 2020-21, an amount equal to ten percent of the revenue
16 received by the Nebraska Education Improvement Fund in the prior fiscal
17 year shall be retained in the fund. For fiscal years 2016-17 through
18 2020-21, the remainder of the fund shall be allocated as follows:

19 (a) One percent of the allocated funds to the Expanded Learning
20 Opportunity Grant Fund to carry out the Expanded Learning Opportunity
21 Grant Program Act;

22 (b) Seventeen percent of the allocated funds to the Department of
23 Education Innovative Grant Fund to be used (i) for competitive innovation
24 grants pursuant to section 79-1054 and (ii) for school fiscal year
25 2017-18, to carry out the purposes of section 79-759;

26 (c) Nine percent of the allocated funds to the Community College Gap
27 Assistance Program Fund to carry out the community college gap assistance
28 program;

29 (d) Eight percent of the allocated funds to the Excellence in
30 Teaching Cash Fund to carry out the Excellence in Teaching Act;

31 (e) Sixty-two percent of the allocated funds to the Nebraska

1 Opportunity Grant Fund to carry out the Nebraska Opportunity Grant Act in
2 conjunction with appropriations from the General Fund; and

3 (f) Three percent of the allocated funds to fund distance education
4 incentives pursuant to section 79-1337.

5 (6) Any money in the State Lottery Operation Trust Fund, the State
6 Lottery Operation Cash Fund, the State Lottery Prize Trust Fund, the
7 Nebraska Education Improvement Fund, or the Education Innovation Fund
8 available for investment shall be invested by the state investment
9 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
10 State Funds Investment Act.

11 (7) Unclaimed prize money on a winning lottery ticket shall be
12 retained for a period of time prescribed by rules and regulations. If no
13 claim is made within such period, the prize money shall be used at the
14 discretion of the Tax Commissioner for any of the purposes prescribed in
15 this section.

16 Sec. 2. Section 79-759, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 79-759 No later than the 2017-18 school year ~~Beginning with the~~
19 ~~2011-12 school year,~~ the State Department of Education shall administer
20 ~~may implement a pilot project for the districtwide administration of a~~
21 standard college admission test, selected by the State Board of
22 Education, to students in the eleventh grade attending a public school in
23 the state in lieu of a participating school district to determine if such
24 ~~test (1) would improve the college-going rate and career readiness of~~
25 ~~Nebraska students and (2) could be utilized as the assessment for the one~~
26 grade in high school as required under section 79-760.03. The department
27 shall pay the expenses of administering such college admission test and
28 may use ~~Participation by school districts in the pilot project shall be~~
29 ~~voluntary and shall be subject to the approval of the board. On or before~~
30 ~~September 1, 2012, and on or before September 1 each year thereafter~~
31 ~~through 2016, the department shall report to the Governor, the Clerk of~~

1 ~~the Legislature, and the chairperson of the Education Committee of the~~
2 ~~Legislature on the pilot project. The report submitted to the Clerk of~~
3 ~~the Legislature and the committee shall be submitted electronically. The~~
4 ~~project shall continue through school year 2015-16. The project shall be~~
5 ~~paid for with funds from the Nebraska Education Improvement Innovation~~
6 ~~Fund as provided in section 9-812.~~

7 Sec. 3. Section 79-760.03, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 79-760.03 (1) For school year 2009-10 and each school year
10 thereafter, the State Board of Education shall implement a statewide
11 system for the assessment of student learning and for reporting the
12 performance of school districts and learning communities pursuant to this
13 section. The assessment and reporting system shall measure student
14 knowledge of subject matter materials covered by measurable academic
15 content standards selected by the state board.

16 (2) The state board shall adopt a plan for an assessment and
17 reporting system and implement and maintain the assessment and reporting
18 system according to such plan. The plan shall be submitted annually to
19 the State Department of Education, the Governor, the chairperson of the
20 Education Committee of the Legislature, and the Clerk of the Legislature.
21 The plan submitted to the committee and the Clerk of the Legislature
22 shall be submitted electronically. The state board shall select grade
23 levels for assessment and reporting required pursuant to subsections (4)
24 through (7) of this section. The purposes of the system are to:

25 (a) Determine how well public schools are performing in terms of
26 achievement of public school students related to the state academic
27 content standards;

28 (b) Report the performance of public schools based upon the results
29 of state assessment instruments and national assessment instruments;

30 (c) Provide information for the public and policymakers on the
31 performance of public schools; and

1 (d) Provide for the comparison among Nebraska public schools and the
2 comparison of Nebraska public schools to public schools elsewhere.

3 (3) The Governor shall appoint a technical advisory committee to
4 review (a) the statewide assessment plan, (b) and state assessment
5 instruments, and (c) the accountability system developed under the
6 Quality Education Accountability Act. The technical advisory committee
7 shall consist of three nationally recognized experts in educational
8 assessment and measurement, one administrator from a school in Nebraska,
9 and one teacher from a school in Nebraska. The members shall serve terms
10 of three years, except that two of the members shall be appointed for
11 initial terms of two years. Any vacancy shall be filled by the Governor
12 for the remainder of the term. One of the members shall be designated as
13 chairperson by the Governor. Members shall be reimbursed for their actual
14 and necessary expenses as provided in sections 81-1174 to 81-1177. The
15 committee shall advise the Governor, the state board, and the State
16 Department of Education on the development of statewide assessment
17 instruments and the statewide assessment plan. The appointments to the
18 committee shall be confirmed by the Legislature.

19 (4) Through school year 2016-17, the ~~The~~ state board shall prescribe
20 a statewide assessment of writing that relies on writing samples in each
21 of three grades selected by the state board. Each year at least one of
22 the three selected grades shall participate in the statewide writing
23 assessment with each selected grade level participating at least once
24 every three years.

25 (5) For school year 2009-10 and for each school year thereafter, the
26 state board shall prescribe a statewide assessment of reading. The
27 statewide assessment of reading shall include assessment instruments for
28 each of the grade levels three through eight and for one grade in high
29 school and standards adopted by the state board pursuant to section
30 79-760.01. For school year 2017-18 and each school year thereafter, the
31 statewide assessment of reading shall include a component of writing as

1 determined by the state board.

2 (6) For no later than school year 2010-11 and for each school year
3 thereafter, the state board shall prescribe a statewide assessment of
4 mathematics. The statewide assessment of mathematics shall include
5 assessment instruments for each of the grade levels three through eight
6 and for one grade in high school and standards adopted by the state board
7 pursuant to section 79-760.01. ~~If no statewide assessment of mathematics~~
8 ~~is administered in school year 2009-10, school districts shall report~~
9 ~~mathematics assessment results in the same manner as such information was~~
10 ~~reported in school year 2008-09.~~

11 (7) For no later than school year 2011-12 and each school year
12 thereafter, the state board shall prescribe a statewide assessment of
13 science. The statewide assessment of science shall include assessment
14 instruments for each of the grade levels selected by the state board and
15 standards adopted by the state board pursuant to section 79-760.01. The
16 grade levels shall include at least one grade in elementary school, one
17 grade in middle school or junior high school, and one grade in high
18 school.

19 (8) The department shall conduct studies to verify the technical
20 quality of assessment instruments and demonstrate the comparability of
21 assessment instrument results required by the act. The department shall
22 annually report such findings to the Governor, the Legislature, and the
23 state board. The report submitted to the Legislature shall be submitted
24 electronically.

25 (9) The state board shall recommend national assessment instruments
26 for the purpose of national comparison. Beginning with school year
27 2017-18, the state board shall select a national assessment instrument
28 that is also used as a standard college admission test which shall be
29 administered to students in the eleventh grade in every public high
30 school in each school district. Each school district shall report
31 individual student data for scores and sub-scores according to procedures

1 established by the state board and the department pursuant to section
2 79-760.05.

3 (10) The aggregate results of assessment instruments and national
4 assessment instruments shall be reported by the district on a building
5 basis to the public in that district, to the learning community
6 coordinating council if such district is a member of a learning
7 community, and to the department. Each learning community shall also
8 report the aggregate results of any assessment instruments and national
9 assessment instruments to the public in that learning community and to
10 the department. The department shall report the aggregate results of any
11 assessment instruments and national assessment instruments on a learning
12 community, district, and building basis as part of the statewide
13 assessment and reporting system.

14 (11)(a) The assessment and reporting plan shall:

15 (i) Provide for the confidentiality of the results of individual
16 students; and

17 (ii) Include all public schools and all public school students.

18 (b) The state board shall adopt criteria for the inclusion of
19 students with disabilities, students entering the school for the first
20 time, and students with limited English proficiency.

21 The department may determine appropriate accommodations for the
22 assessment of students with disabilities or any student receiving special
23 education programs and services pursuant to section 79-1139. Alternate
24 academic achievement standards in reading, mathematics, and science and
25 alternate assessment instruments aligned with the standards may be among
26 the accommodations for students with severe cognitive disabilities.

27 (12) The state board may select additional grade levels, ~~and~~
28 ~~additional~~ subject areas, or assessment instruments for statewide
29 assessment consistent instruments to comply with federal requirements.

30 (13) The state board shall not require school districts to
31 administer assessments or assessment instruments which are not consistent

1 ~~with other than as prescribed~~ by the act.

2 (14) The state board ~~may shall~~ appoint committees of teachers, from
3 each appropriate subject area, and administrators to assist in the
4 development of statewide assessment instruments required by the act.

5 Sec. 4. Original sections 79-759 and 79-760.03, Reissue Revised
6 Statutes of Nebraska, and section 9-812, Revised Statutes Supplement,
7 2015, are repealed.