

ONE HUNDRED SIXTH LEGISLATURE - SECOND SESSION - 2020
COMMITTEE STATEMENT
LB920

Hearing Date: Tuesday January 21, 2020
Committee On: Education
Introducer: Groene
One Liner: Change provisions for the distribution of lottery funds used for education, transfer powers and duties, and create new funds

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

Vote Results:

Aye: 8 Senators Brewer, Groene, Kolowski, Linehan, Morfeld, Murman,
Pansing Brooks, Walz

Nay:

Absent:

Present Not Voting:

Oral Testimony:

Proponents:

Senator Mike Groene
Moilly Aschoff
Jenni Benson
Phillip Picquet
Maddie Fennell
Brian Halstead
Mike Baumgartner
Justin Brown
Colby Coash

Paula Kohles
Jeff Cole
Tom Venzor
Paul Turman
Nicole Fox

Opponents:

Randy Schmailzl
Alex Lovrien
Tammy Green

Neutral:

Greg Adams
Russ Karpisek

Representing:

introducer
ESU 8
Nebraska State Education Association
Perkins County Schools
Nebraska State Education Association
Nebraska Department of Education
Coordinating Commission for Postsecondary Education
University of Nebraska--Lincoln
Nebraska Association of School Boards, Nebraska
Council of School Administrators, STANCE, Nebraska
Rural Community Schools Association
Creighton University
Beyond School Bells
Nebraska Catholic Conference
Nebraska State College System
Platte Institute

Representing:

Metropolitan Community College
Metropolitan Community College
Metropolitan Community College

Representing:

Nebraska Community College Association
Nebraska State Auditor

Summary of purpose and/or changes:

Section 1:

The Nebraska Constitution Article III, Sec. 24 requires that 44.5% of all lottery proceeds after prizes, expenses, and an initial transfer of \$500,000 for compulsive gamblers be used for education as the Legislature may direct. All such allocations of lottery funds are currently set to expire on June 30, 2021. Revising Neb. Rev. Stat. Sec. 9-812, LB920 distributes the lottery allocation to education, for the five-year period following the current statutory sunset of June 30, 2021 (fiscal years 2021-22 through 2025-26), as follows:

- 58% to the Nebraska Opportunity Grant Fund
- 9.5% to the Behavioral Training Cash Fund
- 8% to the Excellence in Teaching Cash Fund
- 7% to the Department of Education Innovative Grant Fund
- 4.5% to the Community College Gap Assistance Program Fund
- 3% to the Expanded Learning Opportunity Grant Fund
- 3% to the Nebraska Education Improvement Fund for distance education incentives
- 7% for career-readiness and dual-credit education to be distributed as follows:

-- The first \$282,500 to the State Department of Education Cash Fund for the purpose of funding an online education and career planning tool

-- For the remainder of the 7%:

- 40% to the Access College Early Scholarship Cash Fund
- 45% to the Career-Readiness and Dual-Credit Education Cash Fund
- 15% to the College Credit Testing Fee Cash Fund

For fiscal year 2026-27 and each fiscal year thereafter, the lottery allocation to education shall be transferred as the Legislature may direct.

Two provisions of current statute are being allowed to sunset:

1. A requirement that all education lottery money funnel through the Education Improvement Fund before being transferred to the designated fund. In some cases this means a transfer between agencies.
2. A retainer of the lottery funds equal to 10% of the prior year's allocation designated to be held in the Education Improvement Fund as a cash reserve.

On August 1, 2021, the balance of the Education Improvement Fund is required to be transferred to the Behavioral Training Cash Fund. Currently, in addition to retainer money, the allocation of lottery designated for distance education incentives are kept in and paid out of the Education Improvement Fund. For fiscal years 2021-22 through 2025-26, the Education Improvement Fund is designated for the sole purpose of distance education incentives pursuant to Neb. Rev. Stat. Sec. 79-1337. For fiscal year 2026-27 and each fiscal year thereafter, the fund is to be used as directed by the Legislature.

LB920 changes the dates to require this Committee to submit recommendations to the Clerk of the Legislature on how the education allocation of lottery should be used to best advance the educational priorities of the state for the five-year period beginning with fiscal year 2026-27. This report is due December 31, 2024, five years after the most recently required report was due and submitted.

LB920 adds one completely new subsection, beginning on page 7 line 26, to Neb. Rev. Stat. Sec. 9-812 requiring, on or before September 20 each year beginning in 2022, any department or agency that receives a transfer of funds or acts as an administrator for a fund to prepare an annual report to the Auditor of Public Accounts in a manner to be prescribed by the Auditor. The report is required to include information regarding the use of money by any recipient or sub-recipient. The required report shall be for the immediately preceding July 1 to June 30 fiscal year detailing information regarding the use of money received. The Auditor then annually compiles a report consolidating all of the data and submits it electronically to the Legislature on or before January 1, 2023 and each year thereafter through 2027.

Section 2:

Effective July 1, 2021, LB920 provides for the distribution of education lottery dollars directly to the designated funds instead of funneling through the Education Improvement Funds pursuant to Neb. Rev. Stat. Sec. 9-836.01.

Section 3:

Effective July 1, 2021, LB920 removes the permissive language from statute that allows education lottery dollars to be used to pay for the standard college admission testing for all eleventh grade public school students in Nebraska pursuant to Neb. Rev. Stat. Sec. 79-759.

Sections 4-8:

Effective July 1, 2021, LB920 makes the following changes to the Master Teacher Program Act (Neb. Rev. Stat. Sec. 79-8,124 to 79-8,131).

Renames the Master Teacher Program to the National Certified Teacher Program and master teacher status to national certified teacher status. It requires the Nebraska Department of Education (NDE) to maintain a registry of teachers who achieve national certified teacher status.

The following sections of statute in the Master Teacher Program Act are outright repealed (see Section 44 of this bill):

- Neb. Rev. Stat. Sec. 79-8,127 Annual salary bonus of \$5000 per teacher in the Master Teacher Program if an appropriation is made.
- Neb. Rev. Stat. Sec. 79-8,129 Creation of the Master Teacher Program Fund.
- Neb. Rev. Stat. Sec. 79-8,130 Registration award to pay for application and registration fees associated with obtaining credentials for master teacher status.

Sections 9-22 and 40:

Effective July 1, 2021, LB920 makes the following changes to the Excellence in Teaching Act (Neb. Rev. Stat. Sec. 79-8,132 to 79-8,149).

Transfers responsibility for the act from NDE to the Coordinating Commission for Postsecondary Education (CCPE) and makes the necessary corrections in statute to reflect such change, including moving this act from Chapter 79 to 85 in statute.

Allows recipients of a loan in the Attracting Excellence to Teaching Program to also apply on a one-time basis for a loan to cover the cost of taking each test required to meet the basic skills competency requirement pursuant to Neb. Rev. Stat. Sec. 79-809.

Allows the Enhancing Excellence in Teaching Program, in addition to eligible graduate programs, to be used to earn credentials from a credentialing organization that will qualify a teacher for national certified teacher status pursuant to Neb. Rev. Stat. Sec. 79-8,128. Loans for the purpose of obtaining national certified teacher status are eligible for up to \$350 per component associated with earning the credentials.

Changes the distribution of funds in the Excellence in Teachers Program to 60% for the Attracting Excellence to Teaching Program, and 40% to the Enhancing Excellence in Teaching Program.

LB920 also gives authority to CCPE to adopt and promulgate rules and regulations to carry out the Excellence in Teaching Act, while continuing to give the State Board of Education the authority to adopt and promulgate rules and regulations to determine teacher shortage areas.

Section 23:

LB920 adds the Behavioral Training Cash Fund, the Career-Readiness and Dual-Credit Education Cash Fund, the College Credit Testing Fee Cash Fund, the Department of Education Innovative Grant Fund, the Expanded Learning Opportunity Grant Fund, and the Nebraska Education Improvement Fund to the definition of categorical funds for the purposes of the Tax Equity and Educational Opportunities Support Act (TEEOSA) pursuant to Neb. Rev. Stat. Sec. 79-1003(7).

Section 24:

LB920 changes the reporting requirements of NDE for the innovative grant program from 2019 to each odd-numbered year pursuant to Neb. Rev. Stat. Sec. 79-1054.

Section 25:

Effective July 1, 2021, LB920 allows money transferred to the State Department of Education Cash Fund to be used for the purpose of funding an online education and career planning tool pursuant to Neb. Rev. Stat. Sec. 9-812 to be used as directed.

Section 26:

LB920 removes outdated language from Neb. Rev. Stat. Sec. 79-1104.02 related to transfers from the education lottery dollars in the Education Innovation Fund to the Early Childhood Education Endowment Cash Fund pursuant to Neb. Rev. Stat. Sec. 9-812.

Sections 27-28:

Removes outdated language from Neb. Rev. Stat. Sec. 79-1201.01 and 79-1337 that references distance education equipment reimbursements pursuant to Neb. Rev. Stat. Sec. 79-1336, which is outright repealed (see Section 44).

Sections 29-31:

Effective July 1, 2021, related to the Expanded Learning Opportunity Grant Program Act (Neb. Rev. Stat. Sec. 79-2501 to 79-2510), references to the federal 21st Century Community Learning Centers statute are updated to how such statutes existed on January 1, 2020. Of the funds available in the Expanded Learning Opportunity Grant Program, LB920 specifies that one-third shall be used for existing 21st Century Community Learning Centers and the remaining two-thirds shall be used to support new programs.

Section 32:

Effective July 1, 2021, LB920 adds to the statutory duties of the Auditor of Public Accounts pursuant to Neb. Rev. Stat. Sec. 84-304:

1. Examine or cause to be examined the books, accounts, vouchers, records, and expenditures of departments, agencies, service contractors or subrecipients receiving education lottery dollars when the Auditor of Public Accounts determines such examination necessary or when requested by the department or agency managing the fund, at the expense of the department or agency receiving the transfer of funds or acting as the administrator of the funds.
2. Prescribe the form for the annual reports required in subsection (5) of section 9-812, as written in section 1 of this bill. The annual reports shall be published on the Auditor's website.

Section 33:

Effective July 1, 2021, LB920 gives CCPE the authority to administer the Access College Early Scholarship Cash Fund, the Nebraska Opportunity Grant Fund, the Excellence in Teaching Act, the Excellence in Teaching Cash Fund, the National Certified Teacher Program Act, and the Career-Readiness and Dual-Credit Education Cash Fund pursuant to Neb. Rev. Stat. Sec. 85-1412(7).

Section 34:

Removes outdated language in Neb. Rev. Stat. Sec. 85-1920, as well as the sunset provisions for the Nebraska Opportunity Grant Fund of June 30, 2021.

Section 35:

Effective July 1, 2021, LB920 makes the following changes to the Community College Gap Assistance Program Fund pursuant to 85-2009.

- Removes the annual award restriction from the fund during any fiscal year of \$1.5 million.
- Changes the amount of money any community college may use from the fund to defray the costs of direct staff support services to 10% of any money received from the fund.

Sections 36-39:

Effective July 1, 2021 the following funds are created.

- The Access College Early Scholarship Cash Fund to be administered by CCPE
- The Behavioral Training Cash Fund to be administered by NDE
- The Career-Readiness and Dual-Credit Education Cash Fund to be administered by CCPE
- The College Credit Testing Fee Cash Fund to be administered by NDE

Each fund shall consist of money received from the education lottery allocation pursuant to Neb. Rev. Stat. Sec. 9-812 and any money appropriated by the Legislature. Any money in any of the funds available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Section 40:

Transfers the Excellence in Teaching Act provisions from Chapter 79 to 85 (see above).

Section 41:

Sets the operative date of July 1, 2021 for select sections of the bill as identified above.

Sections 42-43:

Repeals original sections of statute that are amended as identified above.

Section 44:

Effective July 1, 2021, outright repeals the following sections of statute.

- Neb. Rev. Stat. Sec. 50-425 Completed requirement for the Education Committee to submit a lottery report to the Clerk of the Legislature by December 31, 2014.
- Neb. Rev. Stat. Sec. 50-426 and 50-427 Completed requirement for the Education Committee to submit a statewide vision for education report to the Clerk of the Legislature by December 31, 2014.

- Neb. Rev. Stat. Sec. 50-428 Requirement for the Education Committee to submit a report on postsecondary education affordability in Nebraska and alternatives for supporting students and families with the cost to the Clerk of the Legislature by December 31, 2015. Completed by CCPE and submitted to the Education Committee.
- Neb. Rev. Stat. Sec. 79-1336 Distance education equipment reimbursements to be provided to school districts and educational service units from the Education Innovation Fund for school fiscal years 2007-08 through 2013-14.
- Neb. Rev. Stat. Sec. 79-10,145 Learning Community Transition Aid in TEEOSA that was provided for school fiscal years 2017-18 and 2018-19.

Additionally, the following sections of the Masters Teacher Program Act are outright appealed as indicated previously.

- Neb. Rev. Stat. Sec. 79-8,127 Annual salary bonus of \$5000 per teacher in the Master Teacher Program if an appropriation is made.
- Neb. Rev. Stat. Sec. 79-8,129 Creation of the Master Teacher Program Fund.
- Neb. Rev. Stat. Sec. 79-8,130 Registration award to pay for application and registration fees associated with obtaining credentials for master teacher status.

Explanation of amendments:

The Committee considered and adopted AM2388 which substitutes for the bill and revises the language of LB920 as introduced. In addition, it adds amended provisions of LB568 and the provisions of LB1168.

The original provisions of LB920 are amended as follows:

First, AM2388 changes the funding percentages of the education lottery allocation for the Department of Education Innovative Grant Fund from 7% to 5%, for the Community College Gap Assistance Program Fund from 4.5% to 5%, and adds an allocation of 1.5% to the Mental Health Training Cash Fund.

Next, it changes the provisions related to reports to be submitted to the Auditor of Public Accounts. It specifies that recipients, subrecipients and service contractors shall submit their reports directly to the Auditor, not to another department or agency. Likewise, each recipient, subrecipient or service contractor may have its records examined by the Auditor, if deemed necessary, at the expense of said recipient, subrecipient or service contractor (not the agency or department administering the funds). Language is added to clarify that a recipient or subrecipient does not include an individual who is a direct beneficiary of a program or function.

Finally, the amendment adds a sunset provision for the competitive grant programs of June 30, 2021. It states that beginning July 1, 2021, the Department of Education Innovative Grant Fund shall be used for actual and necessary expenses incurred by the department for leadership in (i) research for school finance, (ii) data infrastructure capacity to support education, and (iii) Quality Education Accountability Act.

Original sections of LB920 have been rearranged in AM2388. They can be located as follows:

- LB920 Sec. 1-2, related to lottery distributions, are in AM2388 Sec. 1-2.
- Sec. 3, related to the standardized college admission test, is in AM2388 Sec. 6.
- Sec. 4-8, related to the Master Teacher Program, are in AM2388 Sec. 11-15.
- Sec. 9-22, related to the Excellence in Teaching Act, are in AM2388 Sec. 35-48.
- Sec. 23, related to TEEOSA definitions, is in AM2388 Sec. 16.
- Sec. 24, related to the Innovative Grant Program, is in AM2388 Sec. 17.
- Sec. 25, related to the State Department of Education Cash Fund, is in AM2388 Sec. 18.
- Sec. 26, related to the Early Childhood Education Cash Fund, is in AM2388 Sec. 19.
- Sec. 27-28, related to distance ed equipment reimbursements, are in AM2388 Sec. 20-21.
- Sec. 29-31, related to Expanded Learning Opportunity Grants, are in AM2388 Sec. 22-24.
- Sec. 32, related to reports to be submitted to the Auditor, is in AM2388 Sec. 25.
- Sec. 33, related to authority of CCPE, is in AM2388 Sec. 26.

- Sec. 34, related to the Nebraska Opportunity Grant, is in AM2388 Sec. 27.
- Sec. 35, related to the Community College Gap Assistance Program, is in AM2388 Sec. 28.
- Sec. 36, creating the Access College Early Scholarship Cash Fund, is in AM2388 Sec. 34.
- Sec. 37, creating the Behavioral Training Cash Fund, is in AM2388 Sec. 3.
- Sec. 38, creating the Career-Readiness and Dual-Credit Cash Fund, is in AM2388 Sec. 32.
- Sec. 39, creating the College Credit Testing Fee Cash Fund, is in AM2388 Sec. 10.
- Sec. 40, transferring Excellence in Teaching Program to Chapter 85, is in AM2388 Sec. 49.
- Sec. 41, setting the operation dates of selection sections, is in AM2388 Sec. 50.
- Sec. 42-43, repealing original sections of statute that are amended, are in AM2388 Sec. 51-52.
- Sec. 44, outright repealing select sections of statute, is in AM2388 Sec. 53.

LB568 (Morfeld) Provide for mental health first aid training for school districts and change provisions relating to the use of lottery funds

Effective July 1, 2021, the amended provisions of LB568 require NDE to establish a Mental Health Training Grant Program. Mental health training grants awarded pursuant to this program shall be funded by the Mental Health Training Cash Fund and are available to school districts or educational service units.

Each applicant for a mental health training grant must describe the training on:

- a) The skills, resources, and knowledge necessary to assist students in crisis to connect with appropriate local mental health care services;
- b) Mental health resources, including but not limited to, the location of local community mental health centers; and
- c) Action plans and protocols for referral to such resources.

Each application shall also describe how the training will prepare recipients to

- a) Safely de-escalate crisis situations;
- b) Recognize the signs and symptoms of mental illness, including but not limited to, schizophrenia, bipolar disorder, major clinical depression, and anxiety disorders; and
- c) Timely refer a student to mental health services in the early stages of the development of a mental disorder to avoid subsequent behavioral health care and to enhance the effectiveness of mental health services.

NDE may adopt and promulgate rules and regulations to carry out the Mental Health Training Grant Program.

The Mental Health Training Cash Fund is created and to be administered by NDE. The fund shall consist of money received from the education lottery allocation pursuant to Neb. Rev. Stat. Sec. 9-812 and any money appropriated by the Legislature. Any money in any of the funds available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The amended provisions of LB568 can be found in AM2388 Sec. 4-5.

Testifiers for LB568 (March 18, 2019)

Proponents:

- Senator Adam Morfeld, Introducer
- Jack Moles, Nebraska Rural Community Schools Association
- Dean Folkers, Nebraska Department of Education
- Ann Hunter-Pirtle, Stand for Schools, Nebraska Association of School Boards, Nebraska State Education Association, Nebraska Council of School Administrators, Greater Nebraska Schools Association, and Education Service Unit Coordinating Council
- Annette Dubas, Nebraska Association of Behavioral Health Orgs.
- Lydia Rathe, Self
- Susan M. Swearer, Self
- Angela Gebhardt, Self

- Rebecca Roberts, Sarpy County

Opponents: None

Neutral: None

The Committee vote to incorporate the amended provisions of LB568 into LB920 was:

AYE: 8 Brewer, Groene, Kolowski, Linehan, Morfeld, Murman, Pansing Brooks, Walz

NAY: 0

PRESENT NOT VOTING: 0

ABSENT: 0

LB1168 (Kolowski) Adopt the College Credit Testing Fee Reduction Program Act and the Career-Readiness and Dual-Credit Education Grant Program Act, add a fund to the Access College Early Scholarship Program Act, and change provisions relating to the State Lottery Operation Trust Fund

Effective July 1, 2021, the provisions of original LB1168 create the College Credit Testing Fee Reduction Program Act to be administered by NDE.

Beginning in school year 2021-22, school districts may apply for reimbursement of testing fee reductions. These reductions are defined as an amount paid by such district to reduce the fees charged to a qualified student that meets poverty guidelines and is taking a test offered by a national college credit testing program, less any rebate received for the student by the national testing program. The test must be related to a course which is offered by the school district and in which such student is enrolled.

School districts shall be reimbursed from the College Credit Testing Fee Cash Fund for all testing fee reductions paid by such district during the period covered by the application. However, if there is not a sufficient amount of money available to pay all reimbursements to all applicant school districts, reimbursements shall be proportionally reduced such that the amount of all such reimbursements shall equal the amount of money available in the fund.

On or before December 31, 2022, and each year thereafter, NDE shall electronically submit an annual report on the College Credit Testing Fee Reduction Program to the Clerk of the Legislature including, but not limited to, the number and amount of testing fee reductions paid by school districts, the reimbursement level for such grant recipients, the school districts attended by the testing fee reduction recipients, and information regarding the number and types of courses associated with testing fee reductions.

NDE shall adopt and promulgate rules and regulations to carry out the College Credit Testing Fee Reduction Program that include, but are not limited to, poverty guidelines.

The provisions of LB1168 related to the College Credit Test Fee Reduction Program Act can be found in AM2388 Sec. 7-9. The College Credit Testing Fee Cash Fund, created by LB920, can be found in AM2388 Sec. 10.

Effective July 1, 2021, LB1168 also creates the Career-Readiness and Dual-Credit Education Grant Program Act administered by CCPE. CCPE, in consultation with NDE, the Department of Labor, and any advisory committee established by CCPE for such purpose, shall:

1. Create and establish teacher education pathways enabling the instruction of dual-credit courses and career and technical education courses
2. Correlate and prioritize teacher education pathways with Nebraska workforce demand
3. Establish a grant program to distribute money from the associated cash fund to teachers enrolled in education pathways leading to qualification to teach dual-credit courses and career and technical education courses
4. Establish a directory of available teacher education pathways in Nebraska identified by sequence and location, and

5. On December 31, 2022, and each year thereafter, electronically submit an annual report on grants awarded pursuant to this Act to the Clerk of the Legislature.

The required report shall include, but not be limited to, the number and amount of grants awarded, the postsecondary educational institutions attended by grant recipients, and information regarding the completion of instructor requirements to teach dual-credit courses and career and technical education courses.

CCPE may adopt and promulgate rules and regulations to carry out the Career-Readiness and Dual-Credit Education Grant Program Act.

The provisions of LB1168 related to the Career-Readiness and Dual-Credit Education Program Act can be found in AM2388 Sec. 29-31. The Career-Readiness and Dual-Credit Education Cash Fund, created by LB920, can be found in AM2388 Sec. 32.

Finally, effective July 1, 2021, LB1168 incorporates the Access College Early Scholarship Cash Fund into the Access College Early Scholarship Program, Neb. Rev. Stat. Sec. 85-2101 to 85-2108, thereby allowing education lottery funds, in addition to the General Fund appropriations, to be expended for this program.

The provision of LB1168 related to the Access College Early Scholarship Program can be found in AM2388 Sec. 33. The Access College Early Scholarship Cash Fund, created by LB920, can be found in AM2388 Sec. 34.

Testifiers for LB1168 (February 3, 2020)

Proponents:

- Senator Kolowski, Introducer
- Mike Baumgartner, Coordinating Commission for Postsecondary Education
- Jack Moles, Nebraska Rural Community Schools Association
- John Skretta, Stance and ESU 6
- Brian Halstead, Nebraska Department of Education

Opponents: None

Neutral: None

The Committee vote to incorporate LB1168 into LB920 was:

AYE: 8 Brewer, Groene, Kolowski, Linehan, Morfeld, Murman, Pansing Brooks, Walz

NAY: 0

PRESENT NOT VOTING: 0

ABSENT: 0

Mike Groene, Chairperson