

ONE HUNDRED SEVENTH LEGISLATURE - FIRST SESSION - 2021
COMMITTEE STATEMENT
LB529

Hearing Date: Tuesday February 02, 2021
Committee On: Education
Introducer: Walz
One Liner: Change provisions for the distribution of lottery funds used for education, transfer powers and duties, create new acts and funds, and change education provisions

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

Vote Results:
Aye: 5 Senators Day, McKinney, Morfeld, Pansing Brooks, Walz
Nay:
Absent:
Present Not Voting: 3 Senators Linehan, Murman, Sanders

Oral Testimony:

Proponents:

Nicole Barrett
Kraig J. Lofquist
Alicia Laufenberg
Jean Anderson
Kyle McGowan
Anne Constantino
Mike Baumgartner
Greg Adams
Paul Turman
Treva Haugaald

Representing:

Education Committee
ESUCC & Nebraska ESUs
NSEA
Region 4 NE Assoc of Special Ed Supervisors
NCSA, NRCSA, NASB & GNSA
NCHEA
Coordinating Commission for Postsecondary Ed
NE Community College Association
Nebraska State College System
Council of Independent Nebraska Colleges

Opponents:

Representing:

Neutral:

Representing:

Submitted Written Testimony:

Proponents:

Jason Hayes
Julie Erickson
Bryce Wilson
Jeff Cole
Jeremy Ekeler
Brad Meurrens
Heath Mello

Representing:

NSEA
NE Assoc. of Behavioral Health Organizations
NE Dept. of Education
Nebraska Children & Families Foundation
Nebraska Catholic Conference
Disability Rights Nebraska
University of Nebraska

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

Legislative Bill 529 is the result of the statutorily required five-year lottery study and report to the Legislature completed by the Education Committee during the 2019 interim and incorporates the majority of the adopted recommendations.

Section 1:

Revising Neb. Rev. Stat. 9-812, LB529 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:

- 2.5% to the Access College Early Scholarship Cash Fund
- 9.5% to the Behavioral Training Cash Fund
- 1% to the Career Mentoring Grant Fund
- 2% to the Career-Readiness and Dual-Credit Education Cash Fund
- 1% to the College Credit Testing Fee Cash Fund
- 4.5% to the Community College Gap Assistance Program Fund
- 7.5% to the Excellence in Teaching Cash Fund
- 3% to the Expanded Learning Opportunity Grant Fund
- 1.5% to the Mental Health Training Cash Fund
- 3% to the Nebraska Education Improvement Fund for distance education incentives
- 58% to the Nebraska Opportunity Grant Fund
- 1.5% to the State Department of Education Cash Fund for the purpose of funding an online education and career planning tool
- 4.5% to the State Department of Education Leadership Cash Fund
- 0.5% to the State Department of Education Technology 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:

- 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.
- 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 July 26, 2021, the balance of the Education Improvement Fund, less the 3% received for the fourth quarter of fiscal year 2020-21 designated for distance education incentives, is required to be transferred to the Behavioral Training Cash Fund. This amount should equal the 10% retainer held for 2020-21 plus any accrued interest.

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. 79-1337. For fiscal year 2026-27 and each fiscal year thereafter, the fund is to be used as directed by the Legislature.

LB529 adds a new subsection, beginning on page 7 line 31, to Neb. Rev. Stat. 9-812 requiring, on or before September 20 each year, beginning in 2022, any department or agency that receives an education lottery allocation or acts as the administrator for a fund prepare an annual report to the Auditor of Public Accounts in a manner to be prescribed by the Auditor. Recipients, subrecipients, and service contractors responsible for managing any portion of lottery education dollars on behalf of an entity are also responsible for submitting such reports. A recipient or subrecipient does not include an individual who is a direct beneficiary.

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 by January 1, 2023 and each year thereafter through 2027.

LB529 requires this Committee to submit recommendations by December 31, 2024 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.

Section 2:

LB529 provides for the distribution of education lottery dollars directly to the designated funds instead of funneling through the Education Improvement Funds.

Sections 3-6:

LB529 creates the Behavioral Training and Teacher Support Act, and creates the affiliated cash fund. Beginning with school year 2021-22, the Educational Service Unit Coordinating Council (ESUCC) shall ensure annual behavioral awareness training is available statewide; and develop, implement, and administer an ongoing statewide teacher support system.

Beginning in school year 2023-24, each school district is required to ensure that each administrator, teacher, paraprofessional, school nurse, and counselor receives behavioral awareness training, along with a review at least once every three years. Such training may be offered to any other school employees. All employees shall have a basic awareness of the "goals, strategies, and schoolwide plans included in such trainings."

LB529 requires that the "training shall include, but not be limited to, evidence-based training on a continuum that includes":

- Recognition of detrimental factors impacting student behavior
- Positive behavior support and proactive teaching strategies
- Verbal intervention and de-escalation techniques

By July 1, 2022 and each year thereafter, each school district must submit a training report to the ESUCC. By December 31, 2022 and each year thereafter the ESUCC shall submit a report electronically to the Education Committee of the Legislature summarizing the reports.

Lottery funds are allocated to fund the training and to create and administer the teacher support system. If funding is received by a school district for training, it shall be considered grant funds for the purposes of the Tax Equity and Educational Opportunities Support Act (TEEOSA).

Each district shall designate at least one behavioral awareness point of contact for each school building or other division. Such person shall be trained in behavioral awareness and have knowledge of community service providers and other resources available for students and families in the school district. LB529 requires each district to maintain or have access

to a registry of local mental health and counseling resources and outlines provisions of such registry.

Sections 7-8:

LB529 establishes the mental health training grant program, and affiliated cash fund.

It requires the Nebraska Department of Education (NDE) to establish a Mental Health Training Grant Program. Grants awarded pursuant to this program 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. Grants received by a school district shall be considered grant funds for the purposes of TEEOSA.

Section 9:

The Career Mentoring Grant Fund is created.

Section 10:

The State Department of Education Leadership Cash Fund is created. These funds shall be used by NDE for actual and necessary expenses incurred by NDE for leadership in (i) research for school finance, (ii) data infrastructure capacity to support education, and (iii) Quality Education Accountability Act.

Section 11:

The State Department of Education Technology Upgrade Cash Fund is created. These funds shall be used for expenses incurred by NDE to upgrade technology to automate enrollment option processes statewide, including but not limited to an electronic record of all applications received, canceled, approved and denied. Once completed, NDE may use the funds to upgrade and automate additional statewide processes or transfer the funds to the State Department of Education Leadership Cash Fund.

Section 12:

LB529 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. 79-759.

Sections 13-16:

LB529 creates the College Credit Testing Fee Reduction Program Act, and creates the affiliated cash fund.

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.

Section 17:

Removes the Education Innovation Fund from the definition of categorical funds for the purposes of TEEOSA.

Section 18:

LB529 adds a sunset provision for the competitive innovation grant program of June 30, 2021.

Section 19:

Allows lottery funds to be transferred to the State Department of Education Cash Fund.

Section 20:

LB529 removes outdated language from Neb. Rev. Stat. 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. 9-812.

Sections 21-22:

Removes outdated language from Neb. Rev. Stat. 79-1201.01 and 79-1337 that references distance education equipment reimbursements pursuant to Neb. Rev. Stat. 79-1336, which is outright repealed (see Section 53).

Sections 23-25:

Related to the Expanded Learning Opportunity Grant Program Act (Neb. Rev. Stat. 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, 2021.

Effective July 1, 2021, of the funds available in the Expanded Learning Opportunity Grant Program, LB529 specifies that 1/3 shall be used for existing 21st Century Community Learning Centers and the remaining 2/3 shall be used to support new programs.

Section 26:

Beginning on page 46, line 13, LB529 adds to the statutory duties of the Auditor of Public Accounts pursuant to Neb. Rev. Stat. 84-304:

- Examine or cause to be examined the books, accounts, vouchers, records, and expenditures of departments, agencies, service contractors, recipients 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, agency, service contractor, recipient or subrecipient.
- 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 27:

LB529 gives the Coordinating Commission for Postsecondary Education (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, and the Career-Readiness and Dual-Credit Education Cash Fund pursuant to Neb. Rev. Stat. 85-1412(7).

Section 28:

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

Section 29:

LB529 removes the annual award restriction from the Community College Gap Assistance Program fund during any fiscal year of \$1.5 million pursuant to Neb. Rev. Stat. 85-2009.

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 30-33:

LB529 creates the Career-Readiness and Dual-Credit Education Grant Program Act administered by CCPE, and the affiliated cash fund. 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.

Sections 34-35:

Creates the Access College Early (ACE) Scholarship Cash Fund to be administered by CCPE and incorporates it into the ACE Scholarship Program.

Sections 36-50:

LB529 makes the following changes to the Excellence in Teaching Act.

Transfers responsibility for the act from NDE to 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. 79-809. It also allows recipients of a loan in the Attracting Excellence to Teaching Program to receive a one-time \$1000 of additional loan forgiveness for completing one semester of student teaching and passing the related practicum.

Changes the distribution of funds in the Excellence in Teachers Program to 75% for Attracting Excellence to Teaching Program, and 25% for Enhancing Excellence in Teaching Program.

LB529 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 51:

Sets the operative date of July 1, 2021.

Section 52:

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

Section 53:

Outright repeals the following sections of statute:

- Neb. Rev. Stat. 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. 50-426 and 50-427 Completed requirement for the Education Committee to complete a statewide vision for education by December 31, 2014.
- Neb. Rev. Stat. 50-428 Requirement for the Education Committee to submit a report by December 31, 2015 that was completed.
- Neb. Rev. Stat. 79-1336 Distance education equipment reimbursements for school fiscal years 2007-08 through 2013-14.
- Neb. Rev. Stat. 79-8,124 to 79-8,131 Master Teacher Program Act
- Neb. Rev. Stat. 79-10,145 Learning Community Transition Aid in TEEOSA that was provided for school fiscal years 2017-18 and 2018-19.

Section 54:

This measure contains an emergency clause.

Explanation of amendments:

The Committee considered and adopted AM495 which substitutes for the bill and revises the language of LB529 as introduced. The original provisions of LB529 are amended as follows:

Section 1:

Removes the 1% allocation of lottery funds to the Career Mentoring Grant Fund and replaces it with a 1% allocation to the Door to College Scholarship Fund.

Allows NDE to retain actual and necessary expenses incurred for administration of the Education Innovative Grant Fund.

Sections 3-6:

Provides consistency of language throughout the sections by changing all training references to "behavioral awareness and intervention training".

Section 4:

Adds a fourth requirement for the behavioral awareness and intervention training. The additional requirement is for at least 30 minutes of interactive training exclusively dedicated to the understanding of duties, rights and responsibilities outlined in the Student Discipline Act and related case law addressing student behavior related to the classroom, extracurricular activities, school transportation and other time on school property, which shall be taught as a preamble to the other training requirements.

Section 7:

Changes the authority to adopt and promulgate rules and regulations from NDE to the State Board of Education.

Section 9:

This section has been struck. It was included to create the Career Mentoring Grant Fund to receive transfers of lottery funds, but is no longer needed due to the change in Section 1.

Section 15 (section 14 in the amendment):

Changes the authority to adopt and promulgate rules and regulations from NDE to the State Board of Education.

Section 17 (section 16 in the amendment):

Specifies that funds received from the Education Innovation Fund prior to July 1, 2022 are considered categorical funds for the purposes of TEEOSA.

Section 18 (section 17 in the amendment):

Extends the sunset of the competitive innovation grant program from June 30, 2021 to June 30, 2022. Likewise, it extends the reporting requirements for this program through 2022.

Section 19 (section 18 in the amendment):

Clarifies that lottery funds transferred to the State Department of Education Cash Fund must be used for its intended purpose and cannot be transferred to the General Fund.

Section 20 (section 19 in the amendment):

Instead of removing outdated language related to transfers from the education lottery dollars in the Education Innovation Fund to the Early Childhood Education Endowment Cash Fund, the language was changed to clarify that such transfers ended on June 30, 2016 to leave a historical trail.

Section 27 (section 26 in the amendment):

Gives CCPE the authority to administer the Door to College Scholarship Act.

Section 31 (section 30 in the amendment):

Changes the due date of the annual report on Career-Readiness and Dual-Credit Education grants from "on" December 31st to "by" December 31st.

The change of lottery fund allocations in Section 1 required the addition of the Door to College Scholarship Act, which was not previously included in LB529. It does the following:

Section 49:

Establishes the name "Door to College Scholarship Act".

Section 50:

Defines nine terms related to the Act, including "eligible student" which means an undergraduate student who:

- Graduated from high school from an accredited education program at a Youth Rehabilitation and Treatment Center (YRTC) in Nebraska, or graduated from an approved or accredited public, private, denominational, or parochial school within one year after being discharged from a YRTC in Nebraska;
- Is enrolled in an eligible postsecondary education institution, which is located in Nebraska;
- Has applied for federal financial aid through the Free Application for Federal Student Aid for the applicable award year;
- Is a resident student domiciled in Nebraska; and

- Complies with all other provisions of the Act and any rules and regulations adopted pursuant to it.

Section 51:

Provides for awards for eligible students not to exceed \$5000 with a full-time status, and prorated awards with a part-time status. The value of scholarships can be adjust annually to make awards to all eligible students.

Section 52:

Outlines the requirements of eligible postsecondary educational institutions related to the application process.

Specifies that a Door to College Scholarship may not be used by a postsecondary educational institution to reduce institutional scholarships, grants, or tuition or fee waivers that a student would otherwise be eligible to receive if such student did not receive a Door to College Scholarship.

Section 53:

Outlines the requirements of CCPE related to reviewing of recommended awards and distribution of funds.

Section 54:

Outlines the requirements for an award to be granted to an eligible student as follows:

- The eligible student has satisfied requirements for admission and has enrolled or indicated an intent to enroll in an eligible postsecondary institution. In the case of a continuing eligible student, such student continues to meet the requirement of the Act and has maintained the minimum standards of performance as required by the postsecondary institution;
- The eligible student certifies that the award will be used only for education expenses; and
- The eligible student has complied with the Act and any rules and regulations adopted pursuant to it.

Section 55:

Requires a scholarship recipient to:

- Attend all required courses regularly;
- Meet with an assigned advisor at regular intervals to discuss academic progress and to develop a job-search plan; and
- Maintain good academic standing without any disciplinary action by the postsecondary institution.

States that a scholarship may be terminated if the recipient fails to meet the requirements.

Section 56:

Establishes a refund policy if the recipient discontinues attendance before the end of the year or if the scholarship is terminated pursuant to the Act.

Section 57:

Outlines the duties of CCPE for supervision of public information and the establishment of a reasonable and fair appeal procedure.

Gives CCPE authority to adopt and promulgate rules and regulations necessary to carry out the Act.

Section 58:

Clarifies the Act does not give CCPE authority to:

- Control or influence policies of eligible postsecondary institutions because it accepts students who receive awards, or
- Require eligible postsecondary institutions to enroll, or continue enrollment of, an award recipient.

Section 59:

Creates the Door to College Scholarship Fund.

Lynne Walz, Chairperson