

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 402**

Introduced by Baker, 30; Davis, 43; Kuehn, 38; Schilz, 47.

Read first time January 16, 2015

Committee: Education

- 1 A BILL FOR AN ACT relating to education; to amend sections 79-1336 and
- 2 79-1337, Reissue Revised Statutes of Nebraska, and section 9-812,
- 3 Revised Statutes Cumulative Supplement, 2014; to change and
- 4 eliminate provisions relating to distance education incentives; to
- 5 harmonize provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 9-812, Revised Statutes Cumulative Supplement,  
2 2014, is 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 2013-14, the Education Innovation Fund shall be  
12 allocated as follows: (i) The first one million dollars shall be  
13 transferred to the Excellence in Teaching Cash Fund to fund the  
14 Excellence in Teaching Act; (ii) the next allocation shall be distributed  
15 to local systems as grants for approved accelerated or differentiated  
16 curriculum programs for students identified as learners with high ability  
17 pursuant to section 79-1108.02 in an aggregated amount up to the amount  
18 distributed in the prior fiscal year for such purposes increased by the  
19 basic allowable growth rate pursuant to section 79-1025; (iii) up to the  
20 next one hundred sixty thousand dollars shall be used by the State  
21 Department of Education to implement section 79-759; (iv) the next one  
22 million seven hundred fifty thousand dollars shall be allocated to early  
23 childhood education grants awarded by the department pursuant to section  
24 79-1103; (v) the next one million dollars shall be transferred to the  
25 Early Childhood Education Endowment Cash Fund for use pursuant to section  
26 79-1104.02; (vi) the next two hundred thousand dollars shall be used to  
27 provide grants to establish bridge programs pursuant to sections 79-1189  
28 to 79-1195; (vii) the next ten thousand dollars shall be used to fund the  
29 Interstate Compact on Educational Opportunity for Military Children;  
30 (viii) the next eighty-five thousand five hundred fifty dollars shall be  
31 allocated to the State Department of Education for distribution pursuant

1 to section 79-2306; and (ix) the amount remaining shall be allocated,  
2 after administrative expenses, for distance education equipment and  
3 funding incentives pursuant to sections 79-1336 and 79-1337. No funds  
4 received as allocations from the Education Innovation Fund pursuant to  
5 this subdivision may be obligated for payment to be made after June 30,  
6 2016.

7 (c) For fiscal year 2014-15, the Education Innovation Fund shall be  
8 allocated, after administrative expenses, as follows: (i) The first one  
9 million two hundred thousand dollars shall be transferred to the  
10 Excellence in Teaching Cash Fund to fund the Excellence in Teaching Act;  
11 (ii) the next allocation shall be distributed to local systems as grants  
12 for approved accelerated or differentiated curriculum programs for  
13 students identified as learners with high ability pursuant to section  
14 79-1108.02 in an aggregated amount up to the amount distributed in the  
15 prior fiscal year for such purposes increased by the basic allowable  
16 growth rate pursuant to section 79-1025; (iii) the next one million eight  
17 hundred fifty thousand dollars shall be allocated to early childhood  
18 education grants awarded by the State Department of Education pursuant to  
19 section 79-1103; (iv) the next one million dollars shall be transferred  
20 to the Early Childhood Education Endowment Cash Fund for use pursuant to  
21 section 79-1104.02; (v) the next two hundred thousand dollars shall be  
22 used to provide grants to establish bridge programs pursuant to sections  
23 79-1189 to 79-1195; (vi) the next ten thousand dollars shall be used to  
24 fund the Interstate Compact on Educational Opportunity for Military  
25 Children; (vii) the next two million dollars shall be allocated for  
26 distance education equipment and funding incentives pursuant to sections  
27 79-1336 and 79-1337; (viii) the next one million dollars shall be  
28 transferred to the School District Reorganization Fund; (ix) up to the  
29 next one hundred forty-five thousand dollars shall be used by the State  
30 Department of Education to implement section 79-759; and (x) the next  
31 three hundred thirty-five thousand dollars shall be allocated to local

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

13 (d) For fiscal year 2015-16, the Education Innovation Fund shall be  
14 allocated, after administrative expenses, as follows: (i) The first one  
15 million two hundred thousand dollars shall be transferred to the  
16 Excellence in Teaching Cash Fund to fund the Excellence in Teaching Act;  
17 (ii) the next allocation shall be distributed to local systems as grants  
18 for approved accelerated or differentiated curriculum programs for  
19 students identified as learners with high ability pursuant to section  
20 79-1108.02 in an aggregated amount up to the amount distributed in the  
21 prior fiscal year for such purposes increased by the basic allowable  
22 growth rate pursuant to section 79-1025; (iii) the next one million nine  
23 hundred fifty thousand dollars shall be allocated to early childhood  
24 education grants awarded by the State Department of Education pursuant to  
25 section 79-1103; (iv) the next one million dollars shall be transferred  
26 to the Early Childhood Education Endowment Cash Fund for use pursuant to  
27 section 79-1104.02; (v) the next ten thousand dollars shall be used to  
28 fund the Interstate Compact on Educational Opportunity for Military  
29 Children; (vi) the next two million five hundred thousand dollars shall  
30 be allocated for distance education equipment and funding incentives  
31 pursuant to sections 79-1336 and 79-1337; (vii) the next one million

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

20 (e) The Education Innovation Fund terminates on June 30, 2016. Any  
21 money in the fund on such date shall be transferred to the Nebraska  
22 Education Improvement Fund on such date.

23 (5) The Nebraska Education Improvement Fund is created. The fund  
24 shall consist of money transferred pursuant to subsections (3) and (4) of  
25 this section, money transferred pursuant to section 85-1920, and any  
26 other funds appropriated by the Legislature. Any money in the fund  
27 available for investment shall be invested by the state investment  
28 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska  
29 State Funds Investment Act.

30 (6) Any money in the State Lottery Operation Trust Fund, the State  
31 Lottery Operation Cash Fund, the State Lottery Prize Trust Fund, or the

1 Education Innovation Fund available for investment shall be invested by  
2 the state investment officer pursuant to the Nebraska Capital Expansion  
3 Act and the Nebraska State Funds Investment Act.

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

9 Sec. 2. Section 79-1336, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11 79-1336 (1) For fiscal years 2007-08 through 2013-14, the State  
12 Department of Education shall provide distance education equipment  
13 reimbursement to school districts and educational service units from the  
14 Education Innovation Fund as provided in this section. Such  
15 reimbursements shall be for hardware or software purchased either by, or  
16 on behalf of, the school district or educational service unit seeking  
17 reimbursement after July 14, 2006, for use in distance education and  
18 shall be limited to a total through fiscal year 2013-14 of twenty  
19 thousand dollars multiplied by the number of high school buildings for  
20 each school district and twenty thousand dollars for each educational  
21 service unit office with a distance education classroom, except that no  
22 educational service unit shall count more than one office with a distance  
23 education classroom for each four thousand square miles within the  
24 boundaries of the educational service unit. If a school district has one  
25 or more former high school buildings that are no longer being used as  
26 high school buildings due to a school district merger and such buildings  
27 have distance education classrooms at the time of application, such  
28 buildings shall be deemed high school buildings for the purposes of this  
29 subsection. The reimbursements may include installation costs for such  
30 hardware or software. To qualify for distance education equipment  
31 reimbursement, the school district or the educational service unit shall

1 access Network Nebraska prior to the application for reimbursement.  
2 Applications for distance education equipment reimbursement shall be  
3 submitted on or before July 1, 2013, for reimbursements to be made in  
4 fiscal year 2013-14 on a form specified by the department and shall  
5 include:

6 (a) A description of the hardware or software purchased and how the  
7 hardware or software will be used for distance education;

8 (b) Copies of receipts for the purchases to be reimbursed;

9 (c) For purchases made on behalf of a school district or educational  
10 service unit, evidence that such purchase was made on behalf of such  
11 school district or educational service unit and that such school district  
12 or educational service unit paid directly or indirectly for such  
13 purchase; and

14 (d) For school districts, a commitment to either send or receive  
15 two-way interactive video distance education courses through the  
16 Educational Service Unit Coordinating Council each semester, or the  
17 equivalent of two semester courses each year, for four consecutive years  
18 and to apply for distance education funding incentives pursuant to  
19 section 79-1337 or to provide any other evidence required by the  
20 department to show that the commitment was met.

21 (2) On or before August 1 of each year, the department shall certify  
22 the reimbursements to be paid to each school district or educational  
23 service unit on or before September 1 of each year.

24 (3) The department shall use the applications for distance education  
25 funding incentives submitted pursuant to section 79-1337 and any other  
26 information requested by the department pursuant to rules and regulations  
27 of the department to verify that each school district that received a  
28 reimbursement completes the commitment to either send or receive two-way  
29 interactive video distance education courses through the council for four  
30 years. Any school district failing to complete such commitment shall  
31 repay the Education Innovation Fund for the amount of any reimbursements

1 received pursuant to this section. On or before September 1 of each year,  
2 the department shall notify any school district failing to complete the  
3 commitment for the prior school year that repayment of the reimbursement  
4 is required and the amount of such repayment. Repayments shall be due on  
5 or before the immediately following December 31. Late repayments shall  
6 accrue interest at the rate prescribed in section 45-104.02 from the date  
7 of the initial reimbursement.

8 (4) On or before October 1 of each year, a school district or  
9 educational service unit may appeal the denial of reimbursements or a  
10 school district may appeal the requirement to repay reimbursements to the  
11 State Board of Education. The board shall allow a representative of the  
12 school district or educational service unit an opportunity to present  
13 information concerning the appeal to the board at the November board  
14 meeting. If the board finds that the department denied the reimbursement  
15 in error, the department shall pay the district or educational service  
16 unit from the Education Innovation Fund as soon as practical the amount  
17 which was denied in error. If the board finds that the department erred  
18 in notifying a school district that a reimbursement is required to be  
19 repaid, such notification shall be void.

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

22 Sec. 3. Section 79-1337, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 79-1337 (1) The For fiscal years 2007-08 through 2015-16, the State  
25 Department of Education shall provide distance education funding  
26 incentives from the Education Innovation Fund to school districts and  
27 educational service units for qualified distance education courses,  
28 including, but not limited to, two-way interactive video distance  
29 education courses, coordinated through the ~~Distance Education Council~~  
30 until July 1, 2008, and the Educational Service Unit Coordinating Council  
31 on and after July 1, 2008, as provided in this section.

1           (2) School districts and educational service units shall apply for  
2 ~~distance education funding incentives~~ annually through ~~calendar year 2015~~  
3 to the department on or before August 1 on a form specified by the  
4 department. The application shall:

5 ~~(a) For school districts,~~ specify (a ~~i~~) the qualified distance education  
6 courses which were received by students in the membership of the district  
7 in the then-current school fiscal year and which were not taught by a  
8 teacher employed by the school district and (b ~~ii~~) for each such course  
9 (~~i~~ A) the number of students in the membership of the district who  
10 received the course and (ii) , ~~(B)~~ the educational entity employing the  
11 teacher, , and ~~(C) whether the course was a two-way interactive video~~  
12 ~~distance education course;~~ and

13           ~~(b) For school districts and educational service units,~~ specify (i)  
14 ~~the qualified distance education courses which were received by students~~  
15 ~~in the membership of another educational entity in the then-current~~  
16 ~~school fiscal year and which were taught by a teacher employed by the~~  
17 ~~school district or educational service unit,~~ (ii) for each such course  
18 ~~for school districts,~~ the number of students in the membership of the  
19 ~~district who received the course,~~ and (iii) for each such course (A) the  
20 ~~other educational entities in which students received the course and how~~  
21 ~~many students received the course at such educational entities,~~ (B) any  
22 ~~school district that is sparse or very sparse as such terms are defined~~  
23 ~~in section 79-1003 that had at least one student in the membership who~~  
24 ~~received the course,~~ and (C) ~~whether the course was a two-way interactive~~  
25 ~~video distance education course.~~

26           (3) On or before September 1 of each year through ~~calendar year~~  
27 ~~2015,~~ the department shall certify the distance education funding  
28 ~~incentives~~ for each school district and educational service unit which  
29 shall be paid on or before October 1 of such year. The funding incentives  
30 for each district shall be calculated as follows:

31           (a) Each district shall receive ~~distance education units for each~~

1 ~~qualified distance education course as follows:~~

2 ~~(i) One distance education unit for each qualified distance education~~  
3 ~~course received as reported pursuant to subdivision (2)(a) of this~~  
4 ~~section if the course was a two-way interactive video distance education~~  
5 ~~course;~~

6 ~~(ii) One distance education unit for each qualified distance education~~  
7 ~~course sent as reported pursuant to subdivision (2)(b) of this section if~~  
8 ~~the course was not received by at least one student who was in the~~  
9 ~~membership of another school district which was sparse or very sparse;~~

10 ~~(iii) One one distance education unit for each qualified distance~~  
11 ~~education course sent as reported in this section; pursuant to~~  
12 ~~subdivision (2)(b) of this section if the course was received by at least~~  
13 ~~one student who was in the membership of another school district which~~  
14 ~~was sparse or very sparse, but the course was not a two-way interactive~~  
15 ~~video distance education course; and~~

16 ~~(iv) Two distance education units for each qualified distance~~  
17 ~~education course sent as reported pursuant to subdivision (2)(b) of this~~  
18 ~~section if the course was received by at least one student who was in the~~  
19 ~~membership of another school district which was sparse or very sparse and~~  
20 ~~the course was a two-way interactive video distance education course;~~

21 ~~(b) The difference of the amount available for distribution in the~~  
22 ~~Education Innovation Fund on the August 1 when the applications were due~~  
23 ~~minus any amount to be paid to school districts pursuant to section~~  
24 ~~79-1336 shall be divided by the number of distance education units to~~  
25 ~~determine the value incentive per distance education unit, except that~~  
26 ~~the value incentive per distance education unit shall not equal an amount~~  
27 ~~greater than one thousand dollars; and~~

28 ~~(c) The distance education funding incentives for each school~~  
29 ~~district or educational service unit shall equal the number of distance~~  
30 ~~education units calculated for the school district multiplied by the~~  
31 ~~value incentive per distance education unit.~~

1           ~~(4) If there are additional funds available for distribution after~~  
2 ~~equipment reimbursements pursuant to section 79-1336 and incentives~~  
3 ~~calculated pursuant to subsections (1) through (3) of this section,~~  
4 ~~school districts and educational service units may qualify for additional~~  
5 ~~incentives for elementary distance education courses. Such incentives~~  
6 ~~shall be calculated for sending and receiving school districts and~~  
7 ~~educational service units as follows:~~

8           ~~(a) The per-hour incentives shall equal the funds available for~~  
9 ~~distribution after equipment reimbursements pursuant to section 79-1336~~  
10 ~~and incentives calculated pursuant to subsections (1) through (3) of this~~  
11 ~~section divided by the sum of the hours of elementary distance education~~  
12 ~~courses sent or received for each school district and educational service~~  
13 ~~unit submitting an application, except that the per-hour incentives shall~~  
14 ~~not be greater than ten dollars; and~~

15           ~~(b) The elementary distance education incentives for each school~~  
16 ~~district and educational service unit shall equal the per-hour incentive~~  
17 ~~multiplied by the hours of elementary distance education courses sent or~~  
18 ~~received by the school district or educational service unit.~~

19           ~~(4 5) The department may verify any or all application information~~  
20 ~~using annual curriculum reports and may request such verification from~~  
21 ~~the council.~~

22           ~~(5 6) On or before October 1 of each year through calendar year~~  
23 ~~2015, a school district or educational service unit may appeal the denial~~  
24 ~~of distance education funding incentives for any course by the department~~  
25 ~~to the State Board of Education. The board shall allow a representative~~  
26 ~~of the school district or educational service unit an opportunity to~~  
27 ~~present information concerning the appeal to the board at the November~~  
28 ~~board meeting. If the board finds that the course meets the requirements~~  
29 ~~of this section, the department shall pay the district or educational~~  
30 ~~service unit from the Education Innovation Fund as soon as practical in~~  
31 ~~an amount for which the district or educational service unit should have~~

1 qualified based on the value incentive per distance education unit used  
2 in the original certification of distance education funding incentives  
3 pursuant to this section.

4 (6 7) The State Board of Education shall adopt and promulgate rules  
5 and regulations to carry out this section.

6 Sec. 4. Original sections 79-1336 and 79-1337, Reissue Revised  
7 Statutes of Nebraska, and section 9-812, Revised Statutes Cumulative  
8 Supplement, 2014, are repealed.