

ESUCC

Legislative Committee Meeting

Wednesday, March 4, 2015, 3:00 PM

ESU No. 11 412 West 14th Avenue Holdrege, NE with DL at ESU 1, 5, 6, 10, 13, 18, 6949

South 110th Street, LaVista, NE 68128

Attendance Taken at 3:06 PM.

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

1. Call to Order

2. Roll Call

3. Agenda Item

3.1. ESUCC Legislative Action Plan

3.2. Network NE Membership (Non-Profit Agencies)

3.3. LB 343 (Programs of Excellence)

3.4. LB 478 (ESU Facility Funding)

3.5. LB 402 (DL)

4. Next Meetings Agenda Items

5. Executive Session

6. Adjournment

{{Name: Agenda Item Name}}

{{Discussion: Agenda Item Discussion}}

{{Comments: Agenda Item Comments}}

{{Actions: Agenda Item Actions}}

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 343**

Introduced by Kolowski, 31.

Read first time January 15, 2015

Committee: Education

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

1           Section 1. The Legislature finds that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 478**

Introduced by Baker, 30.

Read first time January 20, 2015

Committee: Education

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

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

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

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

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

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

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

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

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

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

## Option #1

(Addition to existing statute)

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

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

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

## Option #2

(Proposed new statute)

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

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

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

**13-2903. Terms, defined.**

For purposes of the Political Subdivisions Construction Alternatives Act:

\* \* \*

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

\* \* \* \*

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

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

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

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

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

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

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

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

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

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

(8) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**72-2301. Act, how cited.**

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

**72-2302. Purpose of act.**

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

**72-2303. Terms, defined.**

For purposes of the Public Facilities Construction and Finance Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**72-2307. Taxes authorized.**

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

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

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

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

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

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

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

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

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

**10-712. School district, defined.**

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

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

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

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

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

**November 20, 2014**

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

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

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

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

November 20, 2014

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

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

**79-1337. Distance education funding; application; contents; calculation of funding; denial of funding; appeal.**

(1) The State Department of Education shall provide distance education funding to school districts and educational service units for qualified distance education courses, such as a two-way interactive video distance education courses, coordinated through the Educational Service Unit Coordinating Council, as provided in this section.

(2) School districts and educational service units shall apply for funding annually to the department on or before August 1 on a form specified by the department. The application shall specify (i) the qualified distance education courses which were received by students in the membership of the district in the then-current school fiscal year and which were not taught by a teacher employed by the school district and (ii) for each such course (A) the number of students in the membership of the district who received the course and (B) the educational entity employing the teacher; and

(3) On or before September 1 of each year, the department shall certify the funding for each school district and educational service unit which shall be paid on or before October 1 of such year. The funding for each district shall be calculated as follows:

(a) Each district shall receive one distance education unit for each qualified distance education course sent as reported pursuant to this section; and

(b) The amount available for distribution shall be divided by the number of distance education units to determine the value per distance education unit, except that the value shall not equal an amount greater than one thousand dollars; and

(c) The funding for each school district or educational service unit shall equal the number of distance education units calculated for the school district multiplied by the value per distance education unit.

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

(5) On or before October 1 of each year, a school district or educational service unit may appeal the denial of funding for any course by the department to the State Board of Education. The board shall allow a representative of the school district or educational service unit an opportunity to present information concerning the appeal to the board at the November board meeting. If the board finds that the course meets the requirements of this section, the department shall pay the district or educational service unit as soon as practical in an amount for which the district or educational

service unit should have qualified based on the value per distance education unit used in the original certification of funding pursuant to this section.

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

**Source:**Laws 2006, LB 1208, § 23; Laws 2007, LB603, § 30; Laws 2008, LB988, § 53; Laws 2014, LB967, § 23.

**Effective Date: April 3, 2014**

This bill amends section 79-1337. It is intended to continue a program of distance education which otherwise sunsets after 2015. The distance education program is used to provide an equal opportunity for all students to access quality courses through 2-way interactive video distance education. The bill amends the statute to authorize Department of Education appropriated funding only for school districts and education service units which send/provide distance education courses to other districts. The bill eliminates distance education incentives for receiving districts. The districts and education service units providing these courses will receive distance education "units" for each such course they provide, valued by dividing the total number of distance education units earned into the amount allotted under the program. The maximum amount for each unit remains capped at \$1,000, and providing districts and education service units continue to apply to the Department of Education to receive their unit payments.

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.