

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2022-23		FY 2023-24	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	See Below		See Below	
CASH FUNDS	See Below	See Below	See Below	See Below
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See Below	See Below	See Below	See Below

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB1251 amends §9-812 to create the Equal Opportunity Scholarship Fund & the Equal Opportunity Scholarship for Students with Special Needs Program Act.

Beginning in FY2022-23 & each year thereafter, once the \$500,000 is transferred from the State Lottery Operation Trust Fund to the Compulsive Gamblers Assistance Fund; \$5,000,000 will be transferred to the Equal Opportunities Scholarship Fund.

Eligible students will be separated into four tiers:

- Tier A students will have a diagnosis & individualized education plan (iep) for autism, emotional disturbance, dual sensory impairment, multiple impairments or disabilities, visual impairment, hearing impairment, orthopedic impairment, traumatic brain injury, or other qualifying needs as determined by the Nebraska Department of Education (NDE)
- Tier B students will have a diagnosis & iep or a disability under Section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. 794, for an emotional handicap, learning disability, mild mental handicap, developmental delay, other moderate health impairment, or other qualifying needs as determined by NDE
- Tier C students have been identified with a disability under Section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. 794, that have been diagnosed as dyslexic or has an iep for speech, language, a specific learning disability, or other qualifying need as determined by NDE
- Tier D students attend a participating school & were previously receiving an Equal Opportunity Scholarship but who no longer requires special education services

Parents of eligible students will receive the scholarship for the student to attend a participating private or parochial school of their choice. Eligible students may carryover funding not used to a postsecondary institution for up to one year.

The amounts of the scholarships for the different tiers of students are as follows:

- A Tier A student will receive 150% of the current year's statewide average for basic funding per student
- A Tier B student will receive 100% of the current year's statewide average for basic funding per student
- A Tier C student will receive 75% of the current year's statewide average for basic funding per student
- A Tier B student will receive 50% of the current year's statewide average for basic funding per student as long as the student remains in a participating school where a student receives services as a Tier A, B, C, or D student

The fund will be administered by the State Treasurer, who may deduct up to 2% from the fund (\$100,000) to cover their administration costs. The State Treasurer can also contract with a private organization to implement a commercially viable, cost effective, & parent-friendly system for payment on behalf of a parent & the eligible student to a participating school, including, but not limited to, the use of electronic or online fund transfers, except that the scholarship cannot be reduced for electronic payment fees.

EXPENDITURES:

The Nebraska Department of Revenue estimates no fiscal impact.

The Nebraska State Treasurer's Office estimates the need for an additional FTE to administer the fund. For FY2022-23, the FTE will have salary/benefits expense of \$97,000; operating expenses of \$42,000; & \$3,000 for capital outlay. For FY2023-24, the salary/benefits expense increase by 3.56% to \$100,450; & operating expenses will be \$31,000. The expenditures for the new FTE start exceeding the \$100,000 allotted annually by \$42,000 for FY2022-23 & by \$31,450 for FY2023-24.

NDE estimates the need to add 3 FTE's to monitor, assist, & enforce the provisions of the act. For FY2022-23, the FTE's will have salary/benefits expense of \$277,937; operating expenses of \$15,534; travel expenses of \$7,515, & \$16,750 for capital outlay. For FY2023-24, the salary/benefits expense increase by 4.29% to \$289,867; operating expenses will be \$15,126; & travel expenses will be \$7,741.

REVENUE:

With the new act added to the list of funds receiving distributions from the State Lottery Operation Trust Fund, the other funds will see a reduction in the funds they receive & that amount cannot be determined at this time.

Technical Note: The distribution of lottery proceeds is enumerated in Art. III, sec. 24 of the Nebraska Constitution. To comply with such provision, the allocation contained in LB 1251 would need to be part of the 44.5% dedicated to education as directed by the Legislature.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB:	1251	AM:	AGENCY/POLT. SUB: Nebraska Department of Education
REVIEWED BY:	Gary Bush	DATE:	2/24/22 PHONE: (402) 471-4161
COMMENTS: No basis to disagree with the estimate provide. Agree with agency that other lottery beneficiaries would be negatively impact by the provisions of the bill. Disagree with the agency assumption of a 4% increase in salaries in FY2023-24. Over the last several years the agency has provided a 1% to 3% increase to salaries for their employees.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB:	1251	AM:	AGENCY/POLT. SUB: Nebraska Department of Revenue
REVIEWED BY:	Gary Bush	DATE:	2/24/22 PHONE: (402) 471-4161
COMMENTS: No basis to disagree with the estimate provide. Agree with agency that other lottery beneficiaries would be negatively impact by the provisions of the bill.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB:	1251 (Revised)	AM:	AGENCY/POLT. SUB: State Treasurer
REVIEWED BY:	Gary Bush	DATE:	2/15/22 PHONE: (402) 471-4161
COMMENTS: No basis to disagree with the agency on the fiscal impact of the bill. Because the transfer provided by the bill occurs before other transfers, except of Compulsive Gamblers Assistance, other programs funded with lottery funds in section 11 of the bill would have less funding available.			

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2022

LB⁽¹⁾ 1251 REVISED

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Education

Prepared by: ⁽³⁾ Bryce Wilson/Amy Rhone/Greg Prochazka

Date Prepared: ⁽⁴⁾ 2/24/22

Phone: ⁽⁵⁾ 402-471-4320

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2022-23</u>		<u>FY 2023-24</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>\$317,736</u>	<u> </u>	<u>\$312,734</u>	<u> </u>
CASH FUNDS	<u> </u>	<u> </u>	<u> </u>	<u> </u>
FEDERAL FUNDS	<u> </u>	<u> </u>	<u> </u>	<u> </u>
OTHER FUNDS	<u> </u>	<u> </u>	<u> </u>	<u> </u>
TOTAL FUNDS	<u><u>\$317,736</u></u>	<u><u> </u></u>	<u><u>\$312,734</u></u>	<u><u> </u></u>

Explanation of Estimate:

LB 1251 uses \$5 million from the Lottery fund to make payments to participating private schools that accept students with different levels of special education needs. Since this \$5 million is to be allocated first it would reduce the amount of lottery funds available for other current uses of lottery funds.

LB 1251 creates four tiers of special education with funding for each tier ranging from 150% of the statewide basic funding per formula student with higher needs for Tier A to 50% of the statewide basic funding per formula student for students with minimal additional needs in Tier D. Payments for qualifying students are to be made to the participating schools a child attends.

This bill would make NDE responsible to determine if a student was a qualifying student and then to group students into one of the four tiers. NDE would also be required to communicate the status of an application to the parents and State Treasurer and create a system for the public to review and share information about participating schools.

The State Treasurer’s office would be responsible to administer the program including communicating participating schools, providing forms and the funding. The bill requires the treasurer’s office to hire a private vendor to make payments on behalf of parents/students to participating schools.

While states can decide whether local taxes will support public and private schools, federal funding is allocated per child. This means private schools can equitably participate in using these federal funds. The money is provided by and distributed to the local public school system based on federal guidance:

- o Early Intervention and Special Education (IDEA, Part B and Part C)

Thus, most federal regulations in education come in the form of strings attached to federal funds. If a state, local government, or institution accepts federal funds, then they must abide by the regulations that come with them, both directly and indirectly. Such is the case with the Individuals with Disabilities Education Act (IDEA). IDEA requires public school districts to assess the needs of special education students enrolled in private schools regardless of whether the private schools will use state dollars to provide similar services under this bill. NDE would still be responsible for monitoring general supervision of special education students, regardless of the source of funding for private schools per the 2004 reauthorization of the Individuals with Disabilities Education Act (IDEA) which added

a new section, Monitoring, Technical Assistance, and Enforcement [CFR 34 §§300.600 to 609], that describes the procedures that the U.S. Department of Education, Office of Special Education Programs (OSEP) and each state education agency (SEA) must adhere to in evaluating and addressing any identified noncompliance in the implementation of IDEA. The requirements of the law and its regulations specify the process to be followed by OSEP in monitoring states and by states in monitoring each of their local education agencies (LEAs).

Creates the equal opportunity scholarship fund which is to be funded with \$5 million from lottery funds annually as well as gifts/donations. The fund is to be used by the State Treasurer to make the payments noted above.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2022-23</u>	<u>2023-24</u>
	<u>22-23</u>	<u>23-24</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
EDUCATION SPECIALIST II	1	1	\$ 55,930	\$ 58,167
PROGRAM SPECIALIST II	2	2	\$111,860	\$116,334
Benefits.....			\$110,147	\$115,366
Operating.....			\$ 15,534	\$ 15,126
Travel.....			\$ 7,515	\$ 7,741
Capital outlay.....			\$ 16,750	\$ 0
Aid.....			\$ 0	\$ 0
Capital improvements.....			\$ 0	\$ 0
TOTAL.....			\$317,736	\$312,734

State Agency Estimate

State Agency Name: Department of Revenue (DOR)		Date Due LFO:			
Approved by: Tony Fulton		Phone: 471-5896			
Date Prepared: 2/23/2022					
<u>FY 2022-2023</u>		<u>FY 2023-2024</u>		<u>FY 2024-2025</u>	
<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds					
Cash Funds	See below		See below		See below
Federal Funds					
Other Funds					
Total Funds	See below		See below		See below

LB 1251 alters how lottery proceeds are distributed in Neb. Rev. Stat. § 9-812. Currently, the first \$500 thousand in revenue each year is transferred to Compulsive Gamblers Assistance Fund and then each quarter revenue is split amongst the beneficiaries on a percentage basis. LB 1251 would do the same first \$500 thousand, but would also transfer an additional \$5 million to the Equal Opportunities Scholarship Fund which is created by the bill prior to the remaining beneficiaries receiving their quarterly portions.

LB 1251, if implemented would have a net zero fiscal impact to all cash funds as the creation of the transfer to the Equal Opportunities Scholarship Fund would be offset by the loss in transfer to the other lottery beneficiaries.

Creation of the Equal Opportunities Scholarship fund would reduce funding to all other lottery beneficiaries: the Nebraska Environmental Trust Fund, Nebraska State Fair, the Compulsive Gamblers Assistance Fund, as well as the other educational funds receiving lottery distributions such as the Expanded Learning Opportunity Grant Fund, the Department of Education Innovative Grant Fund, the Community College Gap Assistance Program Fund, the Excellence in Teaching Cash Fund, the Nebraska Opportunity Grant Fund, and other funds supporting distance education.

The operative date for this bill is August 1, 2023.

Major Objects of Expenditure

<u>Class Code</u>	<u>Classification Title</u>	<u>22-23 FTE</u>	<u>23-24 FTE</u>	<u>24-25 FTE</u>	<u>22-23 Expenditures</u>	<u>23-24 Expenditures</u>	<u>24-25 Expenditures</u>
	Benefits.....						
	Operating Costs.....						
	Travel.....						
	Capital Outlay.....						
	Capital Improvements.....						
	Total.....						

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2022

LB⁽¹⁾ 1251 REVISED

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ State Treasurer

Prepared by: ⁽³⁾ Jason Walters Date Prepared: ⁽⁴⁾ February 15, 2022 Phone: ⁽⁵⁾ 402-471-2793

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2022-23</u>		<u>FY 2023-24</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS				
CASH FUNDS	<u>5,000,000</u>	<u>5,000,000</u>	<u>5,000,000</u>	<u>5,000,000</u>
FEDERAL FUNDS				
OTHER FUNDS		<u>-5,000,000</u>		<u>-5,000,000</u>
TOTAL FUNDS	<u>5,000,000</u>	<u>0</u>	<u>5,000,000</u>	<u>0</u>

Explanation of Estimate:

LB 1251 would require the State Treasurer to administer qualified Opportunity Scholarship funds. Duties in this bill such as informing parents of eligible students, ensuring compliance with student privacy laws, administering an annual satisfaction survey, etc. are new to the Treasurer’s Office and would require the creation of a new position to carry out this work. Additionally, the Treasurer’s Office would need to receive certain information from the Department of Education.

The funding for this bill is neutral, \$5,000,000 will be transferred from the State Lottery Operation Trust Fund to the Equal Opportunities Scholarship Fund in each year, 2022-23 and 2023-24. The bill allows for the Treasurer to deduct 2% of the fund for costs to administer the program. However, the Treasurer can’t administer this for less than \$100,000 in FY 2022-23 or 2023-24. Any money kept for administrative expenses will reduce the amount of scholarships.

This fiscal note contains costs for a new FTE, mailing and printing costs, survey costs, legal expenses and the purchase of a dedicated secure server. Depending on how the program unfolds, there could be a need to extra funding for legal services.

FTE \$65,000 in first year, 3% pay increase in second year.

Benefits;

Payroll taxes \$4,900 in first year, \$5,100 in second year

Retirement exp \$4,800 in first year, \$5,000 in second year

Health insurance exp (based on current cost of family coverage, \$1,860/month) \$22,300 in first year, \$23,400 in second year

Operating expenses;

Mailings \$5,000

Survey cost \$5,000

Legal exp \$30,000 in first year, \$20,000 in second year

Server \$3,000 (2022-23 only)

Computer \$1,000 (2022-23 only)

Phone, email, supplies, etc. \$1,000

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2022-23</u>	<u>2023-24</u>
	<u>22-23</u>	<u>23-24</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Scholarship Program Administrator	1	1	65,000	66,950
Benefits.....			32,000	33,500
Operating.....			42,000	31,000
Travel.....				
Capital outlay.....			3,000	
Aid...(Scholarships distributed)			4,858,000	4,868,550
Capital improvements.....				
TOTAL.....			5,000,000	5,000,000