

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1398**

Introduced by Murman, 38; Hansen, 16; Kauth, 31.

Read first time January 17, 2024

Committee:

- 1 A BILL FOR AN ACT relating to schools; to amend section 79-1142, Revised
- 2 Statutes Supplement, 2023; to change provisions relating to
- 3 reimbursement for special education programs and support services
- 4 relating to option students; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1142, Revised Statutes Supplement, 2023, is  
2 amended to read:

3 79-1142 (1) Level I services refers to services provided to children  
4 with disabilities who require an aggregate of not more than three hours  
5 per week of special education services and support services and includes  
6 all administrative, diagnostic, consultative, and vocational-adjustment  
7 counselor services.

8 (2) The total allowable reimbursable cost for support services shall  
9 not exceed a percentage, established by the State Board of Education, of  
10 the school district's or approved cooperative's total allowable  
11 reimbursable cost for all special education programs and support  
12 services. The percentage established by the board for support services  
13 shall not exceed the difference of ten percent minus the percentage of  
14 the appropriations for special education approved by the Legislature set  
15 aside for reimbursements for support services pursuant to subsection (5)  
16 of this section.

17 (3) Except as provided in subsection (6) or (7) of this section, for  
18 special education and support services provided in each school fiscal  
19 year, the department shall reimburse each school district in the  
20 following school fiscal year eighty percent of the total allowable excess  
21 costs for all special education programs and support services.  
22 Cooperatives of school districts or educational service units shall also  
23 be eligible for reimbursement for cooperative programs pursuant to this  
24 section if such cooperatives or educational service units have complied  
25 with the reporting and approval requirements of section 79-1155 for  
26 cooperative programs which were offered in the preceding school fiscal  
27 year.

28 (4)(a) The payments shall be made by the department to the school  
29 district of residence, cooperative of school districts, or educational  
30 service unit each school fiscal year in a minimum of seven payments  
31 between the fifth and twentieth day of each month beginning in December.

1 Additional payments may be made based upon additional valid claims  
2 submitted. The State Treasurer shall, between the fifth and twentieth day  
3 of each month, notify the Director of Administrative Services of the  
4 amount of funds available in the General Fund and the Education Future  
5 Fund for payment purposes. The director shall, upon receiving such  
6 certification, draw warrants against such funds as appropriated.

7 (b) If the General Fund appropriations for special education  
8 approved by the Legislature, minus the amounts set aside pursuant to  
9 subsections ~~subsection~~ (5) and (7) of this section, are insufficient to  
10 reimburse eighty percent of the total allowable excess costs for all  
11 special education programs and support services for any school fiscal  
12 year:

13 (i) Such allowable excess costs shall be reimbursed from the General  
14 Fund appropriations for special education approved by the Legislature,  
15 minus the amounts set aside pursuant to subsections ~~subsection~~ (5) and  
16 (7) of this section, on a pro rata basis at the maximum rate of  
17 reimbursement such appropriations will allow as determined by the  
18 department; and

19 (ii) The remainder of the eighty percent reimbursement of such  
20 allowable excess costs shall be paid from the Education Future Fund.

21 (5) Residential settings described in subdivision (10)(c) of section  
22 79-215 shall be reimbursed for the educational services, including  
23 special education services and support services, in an amount determined  
24 pursuant to the average per pupil cost of the service agency.  
25 Reimbursements pursuant to this section shall be made from funds set  
26 aside for such purpose within sixty days after receipt of a reimbursement  
27 request submitted in the manner required by the department and including  
28 any documentation required by the department for educational services  
29 that have been provided, except that if there are not any funds available  
30 for the remainder of the state fiscal year for such reimbursements, the  
31 reimbursement shall occur within thirty days after the beginning of the

1 immediately following state fiscal year. The department may audit any  
2 required documentation and subtract any payments made in error from  
3 future reimbursements. The department shall set aside separate amounts  
4 from the appropriations for special education approved by the Legislature  
5 for reimbursements pursuant to this subsection for students receiving  
6 special education services and for students receiving support services  
7 for each state fiscal year. The amounts set aside for each purpose shall  
8 be based on estimates of the reimbursements to be requested during the  
9 state fiscal year and shall not be less than the total amount of  
10 reimbursements requested in the prior state fiscal year plus any unpaid  
11 requests from the prior state fiscal year.

12 (6) For each school district that received a payment pursuant to the  
13 Extraordinary Increase in Special Education Expenditures Act in the  
14 school fiscal year for which special education expenditures were  
15 reimbursed pursuant to subsection (3) of this section, an amount equal to  
16 such payment shall be subtracted from the reimbursement calculated  
17 pursuant to subsection (3) of this section and such amount shall be  
18 transferred to the Education Future Fund.

19 (7) In addition to any other amount received by the school district  
20 for special education and support services, a school district that  
21 provides special education programs and services to an option student  
22 pursuant to the enrollment option program, as such terms are defined in  
23 section 79-233, shall be reimbursed for the special education services  
24 and support services provided to such student in an amount equal to one  
25 hundred percent of the cost for such services for the first year such  
26 student is an option student at the school district and twenty percent  
27 for each year thereafter that the student remains an option student at  
28 the school district. Reimbursements pursuant to this section shall be  
29 made from funds set aside for such purpose within sixty days after  
30 receipt of a reimbursement request submitted in the manner required by  
31 the department and including any documentation required by the department

1 for the services provided, except that if there are not any funds  
2 available for the remainder of the state fiscal year for such  
3 reimbursements, the reimbursement shall occur within thirty days after  
4 the beginning of the immediately following state fiscal year. The  
5 department may audit any required documentation and subtract any payments  
6 made in error from future reimbursements. The department shall set aside  
7 separate amounts from the appropriations for special education approved  
8 by the Legislature for reimbursements pursuant to this subsection for  
9 students receiving special education services and students receiving  
10 support services for each state fiscal year. The amounts set aside for  
11 such purpose shall not exceed one million dollars per state fiscal year.

12 (8) ~~(7)~~ On or before November 15 of each year, the department shall  
13 submit to the Governor, the Appropriations Committee of the Legislature,  
14 and the Education Committee of the Legislature:

15 (a) The total allowable excess costs for all special education  
16 programs and support services for all school districts, cooperatives of  
17 school districts, and educational service units; and

18 (b) The total reimbursements requested pursuant to subsections  
19 subsection (5) and (7) of this section for the most recently completed  
20 school fiscal year.

21 Sec. 2. Original section 79-1142, Revised Statutes Supplement,  
22 2023, is repealed.