

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 346

Introduced by Wishart, 27.

Read first time January 16, 2019

Committee:

- 1 A BILL FOR AN ACT relating to the Special Education Act; to amend
- 2 sections 79-1142 and 79-1145, Reissue Revised Statutes of Nebraska;
- 3 to change provisions relating to reimbursements; to eliminate
- 4 obsolete provisions; to harmonize provisions; to repeal the original
- 5 sections; and to declare an emergency.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1142, Reissue Revised Statutes of Nebraska, 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 State Board of Education for
13 support services shall not exceed the difference of ten percent minus the
14 percentage of the appropriations for special education approved by the
15 Legislature set aside for reimbursements for support services pursuant to
16 subsection (5) of this section.

17 ~~(3)(a) {3}~~ For special education and support services provided in
18 each school fiscal year prior to school fiscal year 2018-19, the State
19 Department of Education shall reimburse each school district in the
20 following school fiscal year a pro rata amount determined by the
21 department. The reimbursement percentage shall be the ratio of the
22 difference of the appropriations for special education approved by the
23 Legislature minus the amounts set aside pursuant to subsection (5) of
24 this section divided by the total allowable excess costs for all special
25 education programs and support services.

26 (b) For special education and support services provided in school
27 fiscal years 2018-19 and 2019-20, the State Department of Education shall
28 reimburse each school district in the following school fiscal year at
29 least sixty percent of the total excess allowable costs for all special
30 education programs and support services provided by such school district.
31 If the appropriation for special education approved by the Legislature

exceeds, after subtracting amounts set aside pursuant to subsection (5) of this section, an amount equal to sixty percent of the aggregate total excess allowable costs for all special education programs and support services provided by school districts, the reimbursement percentage shall be the ratio of the difference of the appropriation for special education approved by the Legislature minus the amounts set aside pursuant to subsection (5) of this section divided by the aggregate total excess allowable costs for all special education programs and support services provided by school districts.

(c) For special education and support services provided in school fiscal years 2020-21 and 2021-22, the State Department of Education shall reimburse each school district in the following school fiscal year at least seventy percent of the total excess allowable costs for all special education programs and support services provided by such school district. If the appropriation for special education approved by the Legislature exceeds, after subtracting amounts set aside pursuant to subsection (5) of this section, an amount equal to seventy percent of the aggregate total excess allowable costs for all special education programs and support services provided by school districts, the reimbursement percentage shall be the ratio of the difference of the appropriation for special education approved by the Legislature minus the amounts set aside pursuant to subsection (5) of this section divided by the aggregate total excess allowable costs for all special education programs and support services provided by school districts.

(d) For special education and support services provided in school fiscal year 2022-23 and each school fiscal year thereafter, the State Department of Education shall reimburse each school district in the following school fiscal year at least eighty percent of the total excess allowable costs for all special education programs and support services provided by such school district. If the appropriation for special education approved by the Legislature exceeds, after subtracting amounts

1 set aside pursuant to subsection (5) of this section, an amount equal to
2 eighty percent of the aggregate total excess allowable costs for all
3 special education programs and support services provided by school
4 districts, the reimbursement percentage shall be the ratio of the
5 difference of the appropriation for special education approved by the
6 Legislature minus the amounts set aside pursuant to subsection (5) of
7 this section divided by the aggregate total excess allowable costs for
8 all special education programs and support services provided by school
9 districts.

10 (4) Cooperatives of school districts or educational service units
11 shall also be eligible for reimbursement for cooperative programs
12 pursuant to this section if such cooperatives or educational service
13 units have complied with the reporting and approval requirements of
14 section 79-1155 for cooperative programs which were offered the preceding
15 year. The payments shall be made by the department to the school district
16 of residence, cooperative of school districts, or educational service
17 unit each year in a minimum of seven payments between the fifth and
18 twentieth day of each month beginning in December. Additional payments
19 may be made based upon additional valid claims submitted. The State
20 Treasurer shall, between the fifth and twentieth day of each month,
21 notify the Director of Administrative Services of the amount of funds
22 available in the General Fund for payment purposes. The director shall,
23 upon receiving such certification, draw warrants against funds
24 appropriated.

25 (5) On and after August 1, 2010, residential settings described in
26 subdivision (10)(c) of section 79-215 shall be reimbursed for the
27 educational services, including special education services and support
28 services, provided pursuant to such subdivision on or after August 1,
29 2010, in an amount determined pursuant to the average per pupil cost of
30 the service agency. Reimbursements pursuant to this section shall be made
31 from funds set aside for such purpose within sixty days after receipt of

1 a reimbursement request submitted in the manner required by the
2 department and including any documentation required by the department for
3 educational services that have been provided, except that if there are
4 not any funds available for the remainder of the state fiscal year for
5 such reimbursements, the reimbursement shall occur within thirty days
6 after the beginning of the immediately following state fiscal year. The
7 department may audit any required documentation and subtract any payments
8 made in error from future reimbursements. The State Board of Education
9 shall set aside separate amounts from the appropriations for special
10 education approved by the Legislature for reimbursements pursuant to this
11 subsection for students receiving special education services and for
12 students receiving support services for each state fiscal year. The
13 amounts set aside for each purpose shall be based on estimates of the
14 reimbursements to be requested during the state fiscal year and shall not
15 be less than the total amount of reimbursements requested in the prior
16 state fiscal year plus any unpaid requests from the prior state fiscal
17 year.

18 Sec. 2. Section 79-1145, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 79-1145 ~~(1) For each fiscal year prior to fiscal year 2014-15, the~~
21 ~~aggregate amount of General Funds appropriated for special education~~
22 ~~programs and support services pursuant to sections 79-1129, 79-1132, and~~
23 ~~79-1144 shall not exceed the aggregate amount of General Funds~~
24 ~~appropriated pursuant to such sections for the previous fiscal year,~~
25 ~~increased by five percent.~~

26 (1) (2) For fiscal years prior to fiscal year 2018-19 year 2014-15
27 and each fiscal year thereafter, the aggregate amount of General Funds
28 appropriated for special education programs and support services pursuant
29 to sections 79-1129, 79-1132, and 79-1144 shall not exceed the aggregate
30 amount of General Funds appropriated pursuant to such sections for the
31 previous fiscal year, increased by ten percent. For purposes of this

1 section, for fiscal year 2016-17 the aggregate amount of General Funds
2 appropriated for special education programs and support services pursuant
3 to sections 79-1129, 79-1132, and 79-1144 for the previous fiscal year
4 shall be the net amount after any decrease required pursuant to section
5 43-2515.

6 (2) For fiscal year 2018-19 and each fiscal year thereafter, the
7 aggregate amount of General Funds appropriated for special education
8 programs and support services pursuant to sections 79-1129, 79-1132, and
9 79-1144 shall equal the amount necessary to fund the reimbursements
10 required pursuant to section 79-1142.

11 Sec. 3. Original sections 79-1142 and 79-1145, Reissue Revised
12 Statutes of Nebraska, are repealed.

13 Sec. 4. Since an emergency exists, this act takes effect when
14 passed and approved according to law.