

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 139

Introduced By: Flood, 19;
Read first time: January 8, 2007
Committee: Education

A BILL

1 FOR AN ACT relating to the Special Education Act; to amend
2 section 79-1142, Reissue Revised Statutes of Nebraska; to
3 provide for reimbursement for special education costs for
4 certain students in residential settings as prescribed; and
5 to repeal the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1142, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-1142. (1) Level I services refers to services provided to
4 children with disabilities who require an aggregate of not more than
5 three hours per week of special education services and support
6 services and includes all administrative, diagnostic, consultative,
7 and vocational-adjustment counselor services. Support services means
8 preventive services for children from birth to age twenty-one years
9 and, if the child's twenty-first birthday occurs during the school
10 year, until the end of that school year, not identified or verified as
11 having a disability pursuant to sections 79-1118.01 and 79-1138 but
12 who demonstrate a need for specially designed assistance in order to
13 benefit from the school's general education curriculum. The total
14 allowable reimbursable cost for support services shall not exceed a
15 percentage, established by the State Board of Education, of the school
16 district's or approved cooperative's total allowable reimbursable cost
17 for all special education programs and support services. The
18 percentage established by the State Board of Education for support
19 services shall not exceed ten percent.

20 (2) For special education and support services provided in
21 each school fiscal year, the State Department of Education shall
22 reimburse each school district in the following school fiscal year a
23 pro rata amount determined by the department from appropriations for
24 special education approved by the Legislature and based on allowable
25 excess costs for all special education programs and support services.

26 (3)(a) For the purpose of assisting school districts in
27 addressing the cost of special education and related services for a

1 school-age child with a disability who is not a ward of the state or
2 a ward of any court and who resides in a residential setting located
3 in Nebraska for reasons other than to receive an education as
4 described in subsection (8) of section 79-215, the department may
5 establish a hardship fund from money appropriated by the Legislature
6 for special education. A school district may apply for reimbursement
7 from such fund, in a pro rata amount to be determined by the
8 department, for the cost of providing special education and related
9 services to high-need school-age children with disabilities.
10 Application may be made in the year the costs are incurred. Any money
11 in such fund which is not expended for such reimbursements in a
12 fiscal year shall be allocated to school districts pursuant to
13 subsection (2) of this section.

14 (b) The department shall establish a schedule each fiscal
15 year for distributions pursuant to subdivision (a) of this subsection.
16 Any costs reimbursed from such fund shall not be eligible for
17 reimbursement in the following year. Money in such fund may be
18 accessed by a school district once per student.

19 (c) A school district shall demonstrate to the satisfaction
20 of the department, on forms prescribed by the department, that (i) the
21 school district, prior to September 20 of the school year in which
22 reimbursement is being requested, did not and reasonably could not
23 have anticipated being responsible for the cost of special education
24 and related services to one or more school-age children with
25 disabilities, as described in subsection (8) of section 79-215,
26 residing in a residential setting located outside the school
27 district, (ii) the cost of special education and related services

1 attributable to such child or children will have an extreme financial
2 impact on the budget of the school district, (iii) such financial
3 impact is greater than (A) three times the average per pupil cost
4 based on average daily membership expenditures in the state for the
5 previous school fiscal year or (B) five percent of the requesting
6 school district's total general fund expenditures for the previous
7 school fiscal year, whichever is less, and (iv) the school district
8 meets the eligibility criteria established by the department for
9 reimbursement pursuant to subdivision (a) of this subsection which at
10 a minimum takes into account the number and percentage of such
11 students served by the school district.

12 ~~(3)~~ (4) Cooperatives of school districts or educational
13 service units shall also be eligible for reimbursement for cooperative
14 programs pursuant to this section if such cooperatives or educational
15 service units have complied with the reporting and approval
16 requirements of section 79-1155 for cooperative programs which were
17 offered the preceding year. The payments shall be made by the
18 department to the school district of residence, cooperative of school
19 districts, or educational service unit each year in a minimum of seven
20 payments between the fifth and twentieth day of each month beginning
21 in December. Additional payments may be made based upon additional
22 valid claims submitted. The State Treasurer shall, between the fifth
23 and twentieth day of each month, notify the Director of Administrative
24 Services of the amount of funds available in the General Fund for
25 payment purposes. The director shall, upon receiving such
26 certification, draw warrants against funds appropriated.

27 Sec. 2. Original section 79-1142, Reissue Revised Statutes

1 of Nebraska, is repealed.