

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 876**

Introduced by Kolowski, 31.

Read first time January 08, 2018

Committee: Education

- 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 reimbursement; to harmonize  
4 provisions; to repeal the original sections; and to declare an  
5 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) For special education and support services provided in each  
18 school fiscal year prior to school fiscal year 2017-18, 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 year 2017-18 and each school fiscal year thereafter, the State  
28 Department of Education shall reimburse each school district in the  
29 following school fiscal year at least eighty percent of the total excess  
30 allowable costs for all special education programs and support services  
31 provided by such school district. If the appropriation for special

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

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

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

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

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

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

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

1 previous fiscal year, increased by ten percent. For purposes of this  
2 section, for fiscal year 2016-17 the aggregate amount of General Funds  
3 appropriated for special education programs and support services pursuant  
4 to sections 79-1129, 79-1132, and 79-1144 for the previous fiscal year  
5 shall be the net amount after any decrease required pursuant to section  
6 43-2515.

7 (2) For fiscal year 2018-19 and each fiscal year thereafter, the  
8 aggregate amount of General Funds appropriated for special education  
9 programs and support services pursuant to sections 79-1129, 79-1132,  
10 79-1142, and 79-1144 shall not be less than eighty percent of the total  
11 excess allowable costs for all special education programs and support  
12 services provided by school districts plus the amount to be set aside for  
13 the reimbursement of residential settings pursuant to subsection (5) of  
14 section 79-1142.

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

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