

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 346**

Introduced by Wishart, 27.

Read first time January 16, 2019

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 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

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

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

25 (d) For special education and support services provided in school  
26 fiscal year 2022-23 and each school fiscal year thereafter, the State  
27 Department of Education shall reimburse each school district in the  
28 following school fiscal year at least eighty percent of the total excess  
29 allowable costs for all special education programs and support services  
30 provided by such school district. If the appropriation for special  
31 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.