

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 135

Introduced by Wishart, 27; DeBoer, 10.

Read first time January 07, 2021

Committee: Education

- 1 A BILL FOR AN ACT relating to the Special Education Act; to amend
- 2 sections 79-1142 and 79-1145, Revised Statutes Cumulative
- 3 Supplement, 2020; to change provisions relating to reimbursements;
- 4 to eliminate obsolete provisions; to harmonize provisions; and to
- 5 repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1142, Revised Statutes Cumulative Supplement,
2 2020, is 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)(a) {3} For special education and support services provided in
18 each school fiscal year prior to school fiscal year 2022-23, the
19 department shall reimburse each school district in the following school
20 fiscal year a pro rata amount determined by the department. The
21 reimbursement percentage shall be the ratio of the difference of the
22 appropriations for special education approved by the Legislature minus
23 the amounts set aside pursuant to subsection (5) of this section divided
24 by the total allowable excess costs for all special education programs
25 and support services.

26 (b) For special education and support services provided in school
27 fiscal years 2022-23 and 2023-24, the department shall reimburse each
28 school district in the following school fiscal year at least sixty
29 percent of the total allowable excess costs for all special education
30 programs and support services provided by such school district. If the
31 appropriation for special education approved by the Legislature exceeds,

1 after subtracting amounts set aside pursuant to subsection (5) of this
2 section, an amount equal to sixty percent of the aggregate total
3 allowable excess 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 allowable
8 excess 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 2024-25 and 2025-26, the department shall reimburse each
12 school district in the following school fiscal year at least seventy
13 percent of the total allowable excess costs for all special education
14 programs and support services provided by such school district. If the
15 appropriation for special education approved by the Legislature exceeds,
16 after subtracting amounts set aside pursuant to subsection (5) of this
17 section, an amount equal to seventy percent of the aggregate total
18 allowable excess costs for all special education programs and support
19 services provided by school districts, the reimbursement percentage shall
20 be the ratio of the difference of the appropriation for special education
21 approved by the Legislature minus the amounts set aside pursuant to
22 subsection (5) of this section divided by the aggregate total allowable
23 excess costs for all special education programs and support services
24 provided by school districts.

25 (d) For special education and support services provided in school
26 fiscal year 2026-27 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
29 allowable excess costs for all special education programs and support
30 services provided by such school district. If the appropriation for
31 special education approved by the Legislature exceeds, after subtracting

1 amounts set aside pursuant to subsection (5) of this section, an amount
2 equal to eighty percent of the aggregate total allowable excess costs for
3 all 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 allowable excess 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 in the
15 preceding school fiscal year. The payments shall be made by the
16 department to the school district of residence, cooperative of school
17 districts, or educational service unit each school fiscal year in a
18 minimum of seven payments between the fifth and twentieth day of each
19 month beginning in December. Additional payments may be made based upon
20 additional valid claims submitted. The State Treasurer shall, between the
21 fifth and twentieth day of each month, notify the Director of
22 Administrative Services of the amount of funds available in the General
23 Fund for payment purposes. The director shall, upon receiving such
24 certification, draw warrants against funds appropriated.

25 (5) Residential settings described in subdivision (10)(c) of section
26 79-215 shall be reimbursed for the educational services, including
27 special education services and support services in an amount determined
28 pursuant to the average per pupil cost of the service agency.
29 Reimbursements pursuant to this section shall be made from funds set
30 aside for such purpose within sixty days after receipt of a reimbursement
31 request submitted in the manner required by the department and including

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

16 Sec. 2. Section 79-1145, Revised Statutes Cumulative Supplement,
17 2020, is amended to read:

18 79-1145 (1) For each fiscal year prior to fiscal year 2022-23, the
19 aggregate amount of General Funds appropriated for special education
20 programs and support services pursuant to sections 79-1129, 79-1132, and
21 79-1144 shall not exceed the aggregate amount of General Funds
22 appropriated pursuant to such sections for the previous fiscal year,
23 increased by ten percent.

24 (2) For fiscal year 2022-23 and each fiscal year thereafter, the
25 aggregate amount of General Funds appropriated for special education
26 programs and support services pursuant to sections 79-1129, 79-1132, and
27 79-1144 shall equal the amount necessary to fund the reimbursements
28 required pursuant to section 79-1142.

29 Sec. 3. Original sections 79-1142 and 79-1145, Revised Statutes
30 Cumulative Supplement, 2020, are repealed.