

Revised on 3/10/10 based on amendments adopted through 3/2/10.

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2010-11		FY 2011-12	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB 1087 pertains to the payment for educational services of children placed in residential settings in Nebraska for reasons other than to receive an education. The bill clarifies which school district is responsible for contracting for educational services, what entity is to provide services, the payer for services, and the amount to be paid for such services. The bill has an operative date of August 1, 2010.

Resident District: The bill clarifies that the resident district for a non-state ward does not change when a student moves from one residential setting to another. It is possible the clarification of resident district may result in a different district assuming responsibility for the education of a child. However, it is assumed there will be very few instances of this occurring pursuant to the bill.

Non-state wards Residing in Residential Settings without an Interim Program School: The bill does not change the funding mechanism for children who are non-state wards that reside in a residential setting which does not maintain an interim-program school. The costs of education for these children will continue to be paid by the resident school district. If a child is eligible for special education services, then the resident district will be reimbursed on a year in arrears basis. However, support services provided to these children will now be eligible for reimbursement from the state through special education funding. This will have no fiscal impact in terms of increased state aid for special education because the amount is currently capped.

The bill also establishes a penalty if a school district pays for educational services and is later determined not to be a resident district, then the resident district is to reimburse the school district which initially paid for the services 110% of the amount paid. It is assumed there will be a minimal number of penalties assessed pursuant to the bill.

Non-state Wards Residing in Residing in Residential Settings Having an Interim-Program School: LB 1087 changes current law to require a resident school district to contract with a residential setting to provide educational services for a child, if the residential setting operates an interim-program school or approved or accredited school. Currently, the resident district is required to contract with the district in which the residential services are located. The resident district currently pays a contractual rate for the cost of the services and receives special education reimbursement from the state, on a year in arrears basis, at a current rate of 56%, for a child who is verified as having a disability. The bill requires the State Department of Education (NDE) to reimburse the residential setting the prior year's average per pupil cost of the service agency, beginning August 1, 2010.

The reimbursement to the residential setting is to be made from state aid appropriated for special education services. The estimated amount to reimburse residential settings for educational services of non-state wards is to be set aside from the special education appropriation and 100% of such costs are to be paid within 60 days of the receipt of a reimbursement request. If the set-aside is not sufficient in any fiscal year, then the reimbursement is made the following fiscal year.

NDE conducted a phone survey of residential programs maintaining an interim-program school or approved or accredited school. The survey showed there are 720 students in residential facilities which maintain an education program. The students impacted by the bill will be 112 students who are non-state wards, 67 of which are verified as having disabilities and 45 who are not eligible for special education but who would be eligible for support services as defined by the bill. The average cost of services is \$29,240.

Based upon the survey by NDE, the total estimated cost to provide educational services at interim-program schools to the 112 non-state wards is \$3.3 million in the current year. Approximately, \$1.1 million of these expenditures are currently reimbursed to schools through the state aid appropriation for special education (SPED), on a year-in-arrears basis. The bill provides for \$3.3 million to be paid directly by the state from the special education appropriation to interim-program schools thereby reducing the amount of SPED aid available for support services (flex funding).

The state SPED appropriation will be picking up the cost of support services for non-state wards (45 in the survey) whose costs were previously paid by school districts as well as 100%, rather than 56%, of the educational costs of disabled non-state wards on a current year basis. The state SPED appropriation is capped, so no additional general funds will be expended to directly pay for these services. However, the use of the SPED appropriation for this purpose will reduce the reimbursement rate for all school districts receiving SPED aid.

The bill will have no overall fiscal impact in terms of increased expenditures for services, if the cost of educational services at the interim program schools is no greater than the cost of educational services currently provided for these children.

Impact on TEEOSA: The change in the funding mechanism for these services decreases general fund operating expenses of school districts (NEED) by the amount currently expended for such services. There will also be a decrease in resources in the aid calculation for school districts in the amount of SPED aid that will now be paid directly to an interim-program school. So, it is assumed the bill will have no fiscal impact in terms of TEEOSA funding.

DEPARTMENT OF ADMINISTRATIVE SERVICES

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COMMENTS					
DEPARTMENT OF EDUCATION: No basis to dispute agency analysis.					