

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 826**

Introduced by Davis, 43.

Read first time January 08, 2016

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) For special education and support services provided in each  
18 school fiscal year, the State Department of Education shall reimburse  
19 each school district in the following school fiscal year at least eighty  
20 percent of total excess allowable costs for all special education  
21 programs and support services. If the appropriations for special  
22 education approved by the Legislature exceed an amount equal to eighty  
23 percent of the total excess allowable costs for special education  
24 programs and support services provided by each school district, the  
25 reimbursement percentage shall be a pro rata amount determined by the  
26 department. The reimbursement percentage shall be the ratio of the  
27 difference of the appropriations for special education approved by the  
28 Legislature minus the amounts set aside pursuant to subsection (5) of  
29 this section divided by the total allowable excess costs for all special  
30 education programs and support services.

31 (4) Cooperatives of school districts or educational service units

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

15 (5) On and after August 1, 2010, residential settings described in  
16 subdivision (10)(c) of section 79-215 shall be reimbursed for the  
17 educational services, including special education services and support  
18 services, provided pursuant to such subdivision on or after August 1,  
19 2010, in an amount determined pursuant to the average per pupil cost of  
20 the service agency. Reimbursements pursuant to this section shall be made  
21 from funds set aside for such purpose within sixty days after receipt of  
22 a reimbursement request submitted in the manner required by the  
23 department and including any documentation required by the department for  
24 educational services that have been provided, except that if there are  
25 not any funds available for the remainder of the state fiscal year for  
26 such reimbursements, the reimbursement shall occur within thirty days  
27 after the beginning of the immediately following state fiscal year. The  
28 department may audit any required documentation and subtract any payments  
29 made in error from future reimbursements. The State Board of Education  
30 shall set aside separate amounts from the appropriations for special  
31 education approved by the Legislature for reimbursements pursuant to this

1 subsection for students receiving special education services and for  
2 students receiving support services for each state fiscal year. The  
3 amounts set aside for each purpose shall be based on estimates of the  
4 reimbursements to be requested during the state fiscal year and shall not  
5 be less than the total amount of reimbursements requested in the prior  
6 state fiscal year plus any unpaid requests from the prior state fiscal  
7 year.

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

10 79-1145 (1) For each fiscal year prior to fiscal year 2016-17  
11 ~~2014-15~~, the aggregate amount of General Funds appropriated for special  
12 education programs and support services pursuant to sections 79-1129,  
13 79-1132, and 79-1144 shall not exceed the aggregate amount of General  
14 Funds appropriated pursuant to such sections for the previous fiscal  
15 year, increased by five percent.

16 (2) For fiscal year 2016-17 ~~2014-15~~ and each fiscal year thereafter,  
17 the aggregate amount of General Funds appropriated for special education  
18 programs and support services pursuant to sections 79-1129, 79-1132, and  
19 79-1144 shall not be less than eighty percent of the total excess  
20 allowable costs for special education programs and support services  
21 ~~exceed the aggregate amount of General Funds appropriated pursuant to~~  
22 ~~such sections for the previous fiscal year, increased by ten percent. For~~  
23 ~~purposes of this section, for fiscal year 2016-17 the aggregate amount of~~  
24 ~~General Funds appropriated for special education programs and support~~  
25 ~~services pursuant to sections 79-1129, 79-1132, and 79-1144 for the~~  
26 ~~previous fiscal year shall be the net amount after any decrease required~~  
27 ~~pursuant to section 43-2515.~~

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

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