

AMENDMENTS TO LB 1087

Introduced by Education.

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 79-215, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 79-215 (1) Except as otherwise provided in this section,
6 a student is a resident of the school district where he or she
7 resides or any school district where at least one of his or her
8 parents reside and shall be admitted to any such school district
9 upon request without charge.

10 (2) A school board shall admit any homeless student that
11 requests admission without charge.

12 (3) A school board may allow a student whose residency
13 in the district ceases during a school year to continue attending
14 school in such district for the remainder of that school year.

15 (4) A school board may admit nonresident students to the
16 school district pursuant to a contract with the district where the
17 student is a resident and shall collect tuition pursuant to the
18 contract.

19 (5) A school board may admit nonresident students to
20 the school district pursuant to the enrollment option program as
21 authorized by sections 79-232 to 79-246, and such admission shall
22 be without charge.

23 (6) A school board may admit a student who is a resident

1 of another state to the school district and collect tuition in
2 advance at a rate determined by the school board.

3 (7) When a student as a ward of the state or as a ward
4 of any court (a) has been placed in a school district other than
5 the district in which he or she resided at the time he or she
6 became a ward and such ward does not reside in a foster family home
7 licensed or approved by the Department of Health and Human Services
8 or a foster home maintained or used pursuant to section 83-108.04
9 or (b) has been placed in any institution which maintains a special
10 education program which has been approved by the State Department
11 of Education and such institution is not owned or operated by
12 the district in which he or she resided at the time he or she
13 became a ward, the cost of his or her education and the required
14 transportation costs associated with the student's education shall
15 be paid by the state, but not in advance, to the receiving
16 school district or approved institution under rules and regulations
17 prescribed by the Department of Health and Human Services and the
18 student shall remain a resident of the district in which he or
19 she resided at the time he or she became a ward. Any student who
20 is a ward of the state or a ward of any court who resides in a
21 foster family home licensed or approved by the Department of Health
22 and Human Services or a foster home maintained or used pursuant
23 to section 83-108.04 shall be deemed a resident of the district
24 in which he or she resided at the time he or she became a foster
25 child, unless it is determined under section 43-1311 or 43-1312
26 that he or she will not attend such district in which case he or
27 she shall be deemed a resident of the district in which the foster

1 family home or foster home is located.

2 ~~(8)~~ (8)(a) When a student is not a ward of the state
3 or a ward of any court and is residing in a residential setting
4 located in Nebraska for reasons other than to receive an education
5 and the residential setting is operated by a service provider
6 which is certified or licensed by the Department of Health and
7 Human Services or is enrolled in the medical assistance program
8 established pursuant to the Medical Assistance Act and Title XIX
9 or XXI of the federal Social Security Act, as amended, the student
10 shall remain a resident of the district in which he or she resided
11 immediately prior to residing in such residential setting. ~~Upon~~
12 ~~request by a parent or legal guardian,~~ The resident district for a
13 student who is not a ward of the state or a ward of any court does
14 not change when the student moves from one residential setting to
15 another.

16 (b) If a student is residing in a residential setting
17 as described in subdivision (8)(a) of this section and such
18 residential setting does not maintain an interim-program school as
19 defined in section 4 of this act or an approved or accredited
20 school, the resident school district shall contract with the
21 district in which such residential setting is located for the
22 provision of all educational services, including all special
23 education services. ~~If the parent or legal guardian has requested~~
24 ~~that the resident school district contract with the district in~~
25 ~~which such residential setting is located,~~ and support services
26 as defined in section 79-1125.01, unless a parent or guardian and
27 the resident school district agree that an appropriate education

1 will be provided by the resident school district while the student
2 is residing in such residential setting. If the resident school
3 district is required to contract, the district in which such
4 residential setting is located shall contract with the resident
5 district and provide all educational services, including all
6 special education services, to the student. If the two districts
7 cannot agree on the amount of the contract, the State Department
8 of Education shall determine the amount to be paid by the resident
9 district to the district in which such residential setting is
10 located based on the needs of the student, approved special
11 education rates, the department's general experience with special
12 education budgets, and the cost per student in the district in
13 which such residential setting is located. Once the contract has
14 been entered into, all legal responsibility for special education
15 and related services shall be transferred to the school district in
16 which the residential setting is located. ~~The resident district for~~
17 ~~a student who is not a ward of the state or a ward of any court~~
18 ~~does not change when the student moves from one residential setting~~
19 ~~to another.~~

20 (c) If a student is residing in a residential setting
21 as described in subdivision (8)(a) of this section and such
22 residential setting maintains an interim-program school as defined
23 in section 4 of this act or an approved or accredited school,
24 the department shall reimburse such residential setting for the
25 provision of all educational services, including all special
26 education services and support services, with the amount of
27 payment for all educational services determined pursuant to

1 the average per pupil cost of the service agency as defined
2 in section 79-1116. The resident school district shall retain
3 responsibility for such student's individualized education plan,
4 if any. The educational services may be provided through (i) such
5 interim-program school or approved or accredited school, (ii) a
6 contract between the residential setting and the school district in
7 which such residential setting is located, (iii) a contract between
8 the residential setting and another service agency as defined in
9 section 79-1124, or (iv) a combination of such educational service
10 providers.

11 (d) If a school district pays a school district in which
12 a residential setting is located for educational services provided
13 pursuant to subdivision (8)(b) of this section and it is later
14 determined that a different school district was the resident school
15 district for such student at the time such educational services
16 were provided, the school district that was later determined to be
17 the resident school district shall reimburse the school district
18 that initially paid for the educational services one hundred ten
19 percent of the amount paid.

20 (e) A student residing in a residential setting described
21 in this subsection shall be defined as a student with a handicap
22 pursuant to Article VII, section 11, of the Constitution of
23 Nebraska, and as such the state and any political subdivision
24 may contract with institutions not wholly owned or controlled
25 by the state or any political subdivision to provide the
26 educational services to the student if such educational services
27 are nonsectarian in nature.

1 (9) In the case of any individual eighteen years of
2 age or younger who is a ward of the state or any court and who
3 is placed in a county detention home established under section
4 43-2,110, the cost of his or her education shall be paid by the
5 state, regardless of the district in which he or she resided at
6 the time he or she became a ward, to the agency or institution
7 which: (a) Is selected by the county board with jurisdiction over
8 such detention home; (b) has agreed or contracted with such county
9 board to provide educational services; and (c) has been approved by
10 the State Department of Education pursuant to rules and regulations
11 prescribed by the State Board of Education.

12 (10) No tuition shall be charged for students who may be
13 by law allowed to attend the school without charge.

14 (11) On a form prescribed by the State Department of
15 Education, an adult with legal or actual charge or control of a
16 student shall provide the name of the student, the name of the
17 adult with legal or actual charge or control of the student, the
18 address where the student is residing, and the telephone number
19 and address where the adult may generally be reached during the
20 school day. If the student is homeless or if the adult does not
21 have a telephone number and address where he or she may generally
22 be reached during the school day, those parts of the form may be
23 left blank and a box may be marked acknowledging that these are the
24 reasons these parts of the form were left blank. The adult with
25 legal or actual charge or control of the student shall also sign
26 the form.

27 (12) The department shall adopt and promulgate rules and

1 regulations to carry out the department's responsibilities under
2 this section.

3 Sec. 2. Section 79-1110, Revised Statutes Supplement,
4 2009, is amended to read:

5 79-1110 Sections 79-1110 to 79-1167 and section 4 of this
6 act shall be known and may be cited as the Special Education Act.

7 Sec. 3. Section 79-1113, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 79-1113 For purposes of the Special Education Act, unless
10 the context otherwise requires, the definitions found in sections
11 79-1114 to 79-1125.01 and section 4 of this act shall be used.

12 Sec. 4. Interim-program school means a school approved
13 by the State Board of Education and located in or operated by
14 (1) a county detention home established under section 43-2,110,
15 (2) a juvenile emergency shelter, or (3) any institution which
16 is a public or private facility, not owned or operated by a
17 school district, which provides a residential program and regular
18 educational or special education services with a special education
19 rate approved by the State Department of Education.

20 Sec. 5. Section 79-1124, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 79-1124 Service agency means the school district,
23 educational service unit, local or regional office of mental
24 retardation, interim-program school, or some combination thereof
25 or such other agency as may provide a special education program
26 approved by the State Department of Education, including an
27 institution not wholly owned or controlled by the state or any

1 political subdivision to the extent that it provides educational or
2 other services for the benefit of children from the age of five
3 to the age of twenty-one years with disabilities if such services
4 are nonsectarian in nature.

5 Sec. 6. Section 79-1125.01, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 79-1125.01 Support services means preventive services
8 for those children from birth to age twenty-one years and, if
9 the child's twenty-first birthday occurs during the school year,
10 until the end of that school year, not identified or verified
11 as children with disabilities pursuant to sections 79-1118.01,
12 79-1138, and ~~79-1137~~ ~~to~~ 79-1139 but demonstrating a need for
13 specially designed assistance in order to benefit from the school
14 district's general education curriculum and to avoid the need for
15 potentially expensive special education placement and services.
16 Support services include the educational services provided to
17 a child pursuant to subdivision (8)(c) of section 79-215 by
18 an interim-program school or an approved or accredited school
19 maintained by a residential setting if such child has not been
20 identified or verified as a child with a disability pursuant
21 to sections 79-1118.01 and 79-1138 but demonstrates a need for
22 specially designed assistance by residing in a residential setting
23 described in subdivision (8)(a) of section 79-215.

24 Sec. 7. Section 79-1142, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 79-1142 (1) Level I services refers to services provided
27 to children with disabilities who require an aggregate of not

1 more than three hours per week of special education services
2 and support services and includes all administrative, diagnostic,
3 consultative, and vocational-adjustment counselor services. ~~Support~~
4 ~~services means preventive services for children from birth to age~~
5 ~~twenty-one years and, if the child's twenty-first birthday occurs~~
6 ~~during the school year, until the end of that school year, not~~
7 ~~identified or verified as having a disability pursuant to sections~~
8 ~~79-1118.01 and 79-1138 but who demonstrate a need for specially~~
9 ~~designed assistance in order to benefit from the school's general~~
10 ~~education curriculum.~~

11 (2) The total allowable reimbursable cost for support
12 services shall not exceed a percentage, established by the
13 State Board of Education, of the school district's or approved
14 cooperative's total allowable reimbursable cost for all special
15 education programs and support services. The percentage established
16 by the State Board of Education for support services shall not
17 exceed the difference of ten percent minus the percentage of the
18 appropriations for special education approved by the Legislature
19 set aside for reimbursements for support services pursuant to
20 subsection (5) of this section.

21 ~~(2)~~ (3) For special education and support services
22 provided in each school fiscal year, the State Department of
23 Education shall reimburse each school district in the following
24 school fiscal year a pro rata amount determined by the department.
25 The reimbursement percentage shall be the ratio of the difference
26 of the ~~from~~ appropriations for special education approved by the
27 Legislature and based on minus the amounts set aside pursuant to

1 subsection (5) of this section divided by the total allowable
2 excess costs for all special education programs and support
3 services.

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

20 (5) On and after August 1, 2010, residential settings
21 described in subdivision (8)(c) of section 79-215 shall be
22 reimbursed for the educational services, including special
23 education services and support services, provided pursuant to such
24 subdivision on or after August 1, 2010, in an amount determined
25 pursuant to the average per pupil cost of the service agency.
26 Reimbursements pursuant to this section shall be made from funds
27 set aside for such purpose within sixty days after receipt of

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

19 Sec. 8. This act becomes operative on August 1, 2010.

20 Sec. 9. Original sections 79-215, 79-1113, 79-1124,
21 79-1125.01, and 79-1142, Reissue Revised Statutes of Nebraska, and
22 section 79-1110, Revised Statutes Supplement, 2009, are repealed.