

AMENDMENTS TO LB473

Introduced by Education.

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

3 Section 1. Sections 1 to 4 of this act shall be known and may be
4 cited as the Extraordinary Increase in Special Education Expenditures
5 Act.

6 Sec. 2. The Legislature finds that:

7 (1) The cost to educate students with special needs has increased in
8 recent years;

9 (2) Special education expenditures can be unpredictable for school
10 districts, particularly for school districts with small student
11 populations, and can change dramatically from year to year as students
12 with varying needs join or leave the school district;

13 (3) School districts may have difficulty covering large unexpected
14 special education expenditures; and

15 (4) Assisting school districts upfront with large unexpected special
16 education expenditures allows such school districts to more easily meet
17 the needs of all students.

18 Sec. 3. (1) On or before January 15 of each school fiscal year, a
19 school district may submit an application as prescribed by the State
20 Department of Education to the department for a payment from the
21 Extraordinary Increase in Special Education Expenditures Fund to cover an
22 extraordinary increase in special education expenditures pursuant to the
23 requirements of this section. Such application shall include the special
24 education expenditures of the applicant school district as of the
25 immediately preceding December 31 for the school fiscal year in which the
26 application is submitted.

27 (2) The department shall divide the special education expenditures

1 for the school fiscal year immediately preceding the school fiscal year
2 in which an application is submitted by two and multiply the result by
3 one hundred seven percent for each applicant school district.

4 (3) Each applicant school district shall qualify for a maximum
5 payment equal to the difference of the special education expenditures for
6 the current school fiscal year submitted pursuant to subsection (1) of
7 this section minus the amount calculated pursuant to subsection (2) of
8 this section for such school district for such school fiscal year.

9 (4) The department shall make a payment to each applicant school
10 district on or before January 31 for the school fiscal year in which the
11 application is submitted. Such payment shall equal the maximum payment
12 determined pursuant to subsection (3) of this section, except if the sum
13 of all maximum payments for applicant school districts for such school
14 fiscal year exceeds the available balance in the Extraordinary Increase
15 in Special Education Expenditures Fund, each payment shall be reduced
16 proportionally so that the sum of all payments for applicant school
17 districts for such school fiscal year equals the available balance in the
18 fund.

19 Sec. 4. (1) The Extraordinary Increase in Special Education
20 Expenditures Fund is created. The fund shall be administered by the State
21 Department of Education and shall consist of money appropriated by the
22 Legislature. Any money in the fund available for investment shall be
23 invested by the state investment officer pursuant to the Nebraska Capital
24 Expansion Act and the Nebraska State Funds Investment Act.

25 (2) The department shall make a payment to each qualifying applicant
26 school district from the Extraordinary Increase in Special Education
27 Expenditures Fund pursuant to section 3 of this act for an extraordinary
28 increase in special education expenditures. The department shall
29 reimburse the fund for each such payment from the appropriation for
30 special education and support services reimbursements pursuant to section
31 79-1142 in the school fiscal year immediately following the school fiscal

1 year in which each such payment was made.

2 (3) It is the intent of the Legislature to appropriate three million
3 dollars to the Extraordinary Increase in Special Education Expenditures
4 Fund for fiscal year 2021-22. The Legislature may appropriate additional
5 money in future fiscal years as needed.

6 Sec. 5. Section 79-1142, Revised Statutes Cumulative Supplement,
7 2020, is amended to read:

8 79-1142 (1) Level I services refers to services provided to children
9 with disabilities who require an aggregate of not more than three hours
10 per week of special education services and support services and includes
11 all administrative, diagnostic, consultative, and vocational-adjustment
12 counselor services.

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

22 (3) Except as provided in subsection (6) of this section, for For
23 special education and support services provided in each school fiscal
24 year, the department shall reimburse each school district in the
25 following school fiscal year 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 in the
5 preceding school fiscal year. The payments shall be made by the
6 department to the school district of residence, cooperative of school
7 districts, or educational service unit each school fiscal year in a
8 minimum of seven payments between the fifth and twentieth day of each
9 month beginning in December. Additional payments may be made based upon
10 additional valid claims submitted. The State Treasurer shall, between the
11 fifth and twentieth day of each month, notify the Director of
12 Administrative Services of the amount of funds available in the General
13 Fund for payment purposes. The director shall, upon receiving such
14 certification, draw warrants against funds appropriated.

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

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

6 (6) For each school district that received a payment from the
7 Extraordinary Increase in Special Education Expenditures Fund in the
8 school fiscal year for which special education expenditures were
9 reimbursed pursuant to subsection (3) of this section, an amount equal to
10 such payment shall be subtracted from the reimbursement calculated
11 pursuant to subsection (3) of this section and such amount shall be
12 transferred to the Extraordinary Increase in Special Education
13 Expenditures Fund.

14 Sec. 6. Original section 79-1142, Revised Statutes Cumulative
15 Supplement, 2020, is repealed.

16 Sec. 7. Since an emergency exists, this act takes effect when
17 passed and approved according to law.