

AMENDMENTS TO LB264

(Amendments to Standing Committee amendments, AM835)

Introduced by Hughes, 24.

1 1. Insert the following new sections:

2 **Sec. 124.** Section 79-1119, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 79-1119 Excess cost means the difference between the total cost of
5 the special education program excluding residential care minus federal
6 ~~medicaid funds received pursuant to section 43-2511 for services to~~
7 ~~school-age children excluding amounts designated as reimbursement for~~
8 ~~costs associated with the implementation and administration of the~~
9 ~~billing system pursuant to section 43-2511 and minus the product of the~~
10 number of students in the special education program multiplied by the
11 adjusted average per pupil cost of the preceding year for the school
12 district of residence of each child.

13 **Sec. 125.** Section 79-1142, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 79-1142 (1) Level I services refers to services provided to children
16 with disabilities who require an aggregate of not more than three hours
17 per week of special education services and support services and includes
18 all administrative, diagnostic, consultative, and vocational-adjustment
19 counselor services.

20 (2)(a) The total allowable excess cost for special education
21 programs and support services is (i) the excess cost for special
22 education programs plus (ii) the total allowable reimbursable cost for
23 support services minus (iii) federal medicaid funds received pursuant to
24 section 43-2511 for services to school-age children excluding amounts
25 designated pursuant to such section as reimbursement for costs associated
26 with the implementation and administration of the billing system.

1 (b) ~~(2)~~ The total allowable reimbursable cost for support services
2 shall not exceed a percentage, established by the State Board of
3 Education, of the school district's or approved cooperative's total
4 allowable reimbursable cost for all special education programs and
5 support services. The percentage established by the board for support
6 services shall not exceed the difference of ten percent minus the
7 percentage of the appropriations for special education approved by the
8 Legislature set aside for reimbursements for support services pursuant to
9 subsection (5) of this section.

10 (3)(a) ~~(3)~~ Except as provided in subsection (6) of this section, for
11 special education and support services provided in each school fiscal
12 year, the department shall reimburse each school district in the
13 following school fiscal year a pro rata amount ~~eighty percent~~ of the
14 total allowable excess costs for all special education programs and
15 support services as determined by the department pursuant to subdivision
16 (3)(b) of this section. Cooperatives of school districts or educational
17 service units shall also be eligible for reimbursement for cooperative
18 programs pursuant to this section if such cooperatives or educational
19 service units have complied with the reporting and approval requirements
20 of section 79-1155 for cooperative programs which were offered in the
21 preceding school fiscal year.

22 (b) The department shall reimburse the total allowable excess costs
23 for all special education programs and support services from the General
24 Fund and Education Future Fund appropriations approved by the Legislature
25 for special education pursuant to section 79-1145, minus the amounts set
26 aside pursuant to subsection (5) of this section, on a pro rata basis at
27 the maximum rate of reimbursement such appropriations will allow as
28 determined by the department.

29 (4) The department shall make the reimbursement payments ~~(4)(a) The~~
30 ~~payments shall be made by the department~~ to the school district of
31 residence, cooperative of school districts, or educational service unit

1 each school fiscal year in a minimum of seven payments between the fifth
2 and twentieth day of each month beginning in December. Such reimbursement
3 payments may be adjusted as claims are reviewed and finalized Additional
4 ~~payments may be made based upon additional valid claims submitted.~~ The
5 State Treasurer shall, between the fifth and twentieth day of each month,
6 notify the Director of Administrative Services of the amount of funds
7 available in the General Fund and the Education Future Fund for payment
8 purposes. The director shall, upon receiving such certification, draw
9 warrants against such funds as appropriated.

10 ~~(b) If the General Fund appropriations for special education~~
11 ~~approved by the Legislature, minus the amounts set aside pursuant to~~
12 ~~subsection (5) of this section, are insufficient to reimburse eighty~~
13 ~~percent of the total allowable excess costs for all special education~~
14 ~~programs and support services for any school fiscal year:~~

15 ~~(i) Such allowable excess costs shall be reimbursed from the General~~
16 ~~Fund appropriations for special education approved by the Legislature,~~
17 ~~minus the amounts set aside pursuant to subsection (5) of this section,~~
18 ~~on a pro rata basis at the maximum rate of reimbursement such~~
19 ~~appropriations will allow as determined by the department; and~~

20 ~~(ii) The remainder of the eighty percent reimbursement of such~~
21 ~~allowable excess costs shall be paid from the Education Future Fund.~~

22 (5) Residential settings described in subdivision (10)(c) of section
23 79-215 shall be reimbursed for the educational services, including
24 special education services and support services, 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 set
27 aside for such purpose within sixty days after receipt of a reimbursement
28 request submitted in the manner required by the department and including
29 any documentation required by the department for educational services
30 that have been provided, except that if there are not any funds available
31 for the remainder of the state fiscal year for such reimbursements, the

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

13 (6) For each school district that received a payment pursuant to the
14 Extraordinary Increase in Special Education Expenditures Act in the
15 school fiscal year for which special education expenditures were
16 reimbursed pursuant to subsection (3) of this section, an amount equal to
17 such payment shall be subtracted from the reimbursement calculated
18 pursuant to subsection (3) of this section and such amount shall be
19 transferred to the Education Future Fund.

20 (7) On or before November 15 of each year, the department shall
21 submit to the Governor, the Appropriations Committee of the Legislature,
22 and the Education Committee of the Legislature:

23 (a) The total allowable excess costs for all special education
24 programs and support services for all school districts, cooperatives of
25 school districts, and educational service units; and

26 (b) The total reimbursements requested pursuant to subsection (5) of
27 this section for the most recently completed school fiscal year.

28 **Sec. 126.** Section 79-1145, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 79-1145 (1) For purposes of this section:

31 (a) Nonreimbursable expenditure means an expenditure included within

1 the total allowable excess cost for all special education programs and
2 support services as submitted to the department on or before the first
3 October 31 following the school fiscal year in which the expenditure
4 occurred that is later determined to be nonreimbursable as a special
5 education program or support services expenditure; and

6 (b) Three-year average nonreimbursable expenditures means the
7 average total nonreimbursable expenditures for all school districts for
8 the most recent three school fiscal years for which such information is
9 available.

10 (2)(a) For each fiscal year, the aggregate amount appropriated from
11 the of General Fund and the Education Future Fund Funds appropriated for
12 special education programs and support services pursuant to sections
13 79-1129, 79-1132, and 79-1144 shall not be less than the amounts required
14 pursuant to section 79-1142 to (i) reimburse residential settings
15 described in subdivision (10)(c) of section 79-215 for educational
16 services and reimburse eighty percent of the total allowable excess costs
17 for all special education programs and support services or (ii) meet
18 federal maintenance of state financial support requirements, whichever is
19 greater exceed the aggregate amount of General Funds appropriated
20 pursuant to such sections for the previous fiscal year, increased by ten
21 percent.

22 (b) The amount required to reimburse eighty percent of the total
23 allowable excess costs for all special education programs and support
24 services shall be calculated by subtracting eighty percent of three-year
25 average nonreimbursable expenditures from eighty percent of the total
26 allowable excess costs for all special education programs and support
27 services as submitted to the department on or before the first October 31
28 following the school fiscal year in which the allowable excess costs
29 occurred.

30 2. Renumber the remaining sections and correct internal references
31 accordingly.

- 1 3. Correct the operative date and repealer sections so that the
- 2 sections added by this amendment become operative on their effective date
- 3 with the emergency clause.