

LEGISLATIVE BILL 443

Approved by the Governor March 8, 1977

Introduced by Education Committee, F. Lewis, 45, Chmn.; Maxey, 46; Fitzgerald, 14; Kahle, 37; Lamb, 43; Koch, 12; George, 16; Kremer, 34

AN ACT to amend sections 43-642, 43-645, and 43-647, Revised Statutes Supplement, 1976, relating to the care and education of handicapped children; to define terms; to provide that institutions not wholly owned or controlled by the state or any political subdivision may provide special education programs; to provide for payment of costs as prescribed; and to repeal the original sections, and also section 43-609, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 43-642, Revised Statutes Supplement, 1976, be amended to read as follows:

43-642. The special education programs may be provided by any school district, by contracting with another school district or servicing agency, or by some combination of school districts, an educational service unit, combination of educational service units, the local or regional office of mental retardation, any program approved by the State of Nebraska, or any combination thereof: Provided, that only nonsectarian services shall be considered for approval by the State of Nebraska. Any office of mental retardation program receiving funds under the provisions of this act shall not use such funds to match state funds under the provisions of other programs. The members of the board of education of any school districts not offering special education programs acceptable to the State Board of Education on or before December 31, 1976, and continuously thereafter, shall be in violation of the law. No state funds shall be paid to any school district as long as such violation exists, but no deduction shall be made from any funds required by the Constitution of the State of Nebraska to be paid to such district. On December 31, 1976, and on December 31 of each succeeding year, the Commissioner of Education shall present to the State Board of Education, the Attorney General, the Department of Administrative Services, the State Treasurer, and the Executive Board of the Legislative Council, a list of all school districts not providing or contracting for approved programs.

Sec. 2. That section 43-645, Revised Statutes Supplement, 1976, be amended to read as follows:

43-645. As used in this act Chapter 43, article 6, unless the context otherwise requires:

(1) Excess cost shall mean the difference between the total cost of the special education program excluding residential care and the number of students in the special education program multiplied by the adjusted average per pupil cost of the resident school district of each child for the preceding year;

(2) Average Adjusted average per pupil cost of the preceding year shall mean the amount computed by dividing the total current operating expenditure, excluding special education expenditures, by the preceding year's average daily membership; Provided, the costs of sectarian instruction shall not be included in determining the adjusted average per pupil cost and the computation shall be subject to audit by appropriate state agencies;

(3) Average per pupil cost of the servicing agency shall mean the amount computed by dividing the total operating expenditure of the preceding year, excluding the cost of sectarian instruction, of the servicing agency by its preceding year's average daily membership;

(4) The residence of a child shall mean the legal residence of the parent or guardian;

(5) Servicing agency shall mean the school district, educational service unit, local or regional office of mental retardation or some combination thereof, or such other agency as may provide a special education program approved by the State Department of Education, including an institution not wholly owned or controlled by the state or any political subdivision to the extent that it provides educational or other services for the benefit of children from the age of five to the age of twenty-one years who are handicapped, as that term is from time to time defined by the Legislature, if such services are nonsectarian in nature;

(6) Residential care shall mean food and lodging and any other related expenses which are not a part of the education program, but such care shall not include expenditures for medical or dental services. Expenditures for medical and dental services shall be the responsibility of the parent or legal guardian;

{6} {7} Supportive services shall mean all resources available to the individual to help meet appropriate educational goals and objectives, and shall include auxiliary and resource personnel and material and facility resources;

{7} {8} Board shall mean the Special Education Appeal Board; and

{8} {9} Diagnosis shall mean those procedures carried out by professionally certified or licensed personnel, but shall not include those activities which involve screening and analysis of student populations prior to the provision of diagnostic services by professionally certified or licensed personnel.

Sec. 3. That section 43-647, Revised Statutes Supplement, 1976, be amended to read as follows:

43-647. Each school district shall pay an amount equal to the average per pupil cost of the servicing agency of the preceding year or the cost as agreed upon pursuant to the contract to the agency providing the educational program for every child who is a resident of the district and attending an educational program outside not operated by the school district, including programs operated by the State Department of Education, the Department of Public Institutions, and any other servicing agency whose programs are approved by the State Department of Education. The provisions of this section shall become operative on July 1, 1974.

Sec. 4. That original sections 43-642, 43-645, and 43-647, Revised Statutes Supplement, 1976, and also section 43-609, Reissue Revised Statutes of Nebraska, 1943, are repealed.