

## LEGISLATIVE BILL 3

Approved by the Governor October 5, 1992

Introduced by Speaker Baack, 47, at the request of the Governor

AN ACT relating to schools and school districts; to amend section 79-445, Revised Statutes Supplement, 1992; to change reimbursement provisions for education costs of wards of the state or a court; to create a commission and provide duties; to repeal the original section; and to declare an emergency.

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

Section 1. That section 79-445, Revised Statutes Supplement, 1992, be amended to read as follows:

79-445. (1) A school board or board of education may admit nonresident pupils to the school district, school; may determine the rate of tuition of the pupils, and shall collect such tuition in advance except as otherwise provided in this section.

(2) When the pupil as a ward of the state or as a ward of any court (1) (a) has been placed in a public school district other than the district in which he or she resided at the time he or she became a ward and such ward does not reside in a foster family home licensed or approved by the Department of Social Services or a foster home maintained or used by the Department of Correctional Services pursuant to section 83-108.04 or (2) (b) has been placed in any institution which maintains a special education program which has been approved by the State Department of Education and such institution is not owned or operated by the pupil's resident school district, the cost of his or her education and the required transportation costs associated with the child's education shall be paid by the state, but not in advance, to the receiving school district or approved institution or paid to the county nonresident high school tuition fund under rules and regulations prescribed by the Department of Social Services. Any pupil who is a ward of the state or a ward of any court who resides in a foster family home licensed or approved by the Department of Social Services or a foster home maintained or used by the Department of Correctional Services pursuant to section

83-108.04 shall be deemed a resident of the district in which the foster family home or foster home is located.

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

(4) No tuition shall be charged for children who may be by law allowed to attend the school without charge. The ~~public~~ school district in which the parent or guardian of any nonresident pupil maintains his or her legal residence shall not be liable for the payment of tuition ~~fees~~ and the children of school age of such parent or guardian shall be entitled to free common school privileges the same as any child who is a bona fide resident of such school district whenever the parent or guardian of such nonresident pupil, having entered the public service of the State of Nebraska, has ~~removed~~ moved from the school district in which he or she maintains legal residence into another school district for temporary purposes incidental to serving the state, without the intention of making the school district to which the parent or guardian has ~~removed~~ moved his or her legal residence. No tuition shall be charged for a child whose parents are divorced if such child attends school in a district in which either parent resides. The burden of proof as to legal residence shall rest with the person claiming legal residence in any district. The school district may allow a pupil whose residency in the district ceases during a school year to continue attending school for the remainder of that school year without payment of tuition.

(5) The school board or board of education may admit nonresident pupils to the ~~district~~ school district without requiring the payment of tuition if such pupils are in the actual physical custody of a resident of the school district and are not residents of an adjoining school district and the school board or board of education determines that the pupils would otherwise be denied guaranteed free common school privileges.



(6) The changes made to this section by this legislative bill shall apply to all reimbursements under this section for school year 1992-93 and all school years thereafter.

Sec. 2. The Director of Social Services and the Commissioner of Education shall appoint a joint commission on or before October 15, 1992. The purpose of the commission shall be to examine the procedure for funding the education of wards of the state and wards of the court.

The commission shall identify and define all potential placements for wards, examine the effect of such placements on the education of wards, determine the entity responsible for providing for the education of wards, study the method of identifying special educational needs of wards, examine the methods of reimbursement under the Special Education Act and of payment of state aid relative to wards, and study any other related matters. The commission shall report its findings, conclusions, and recommendations to the Legislature on or before January 15, 1993.

Sec. 3. That original section 79-445, Revised Statutes Supplement, 1992, is repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.