

## LEGISLATIVE BILL 942

Approved by the Governor April 17, 1986

Introduced by Education Committee, Vickers, 38,  
Chairperson; Baack, 47; Nelson, 35;  
Eret, 32; R. Johnson, 34; Morehead, 30;  
Lamb, 43; Barrett, 39

AN ACT relating to special education; to amend sections 43-611, 43-643, 43-646.02, 43-646.08, and 43-648, Reissue Revised Statutes of Nebraska, 1943, and section 43-649, Revised Statutes Supplement, 1985; to state intent; to provide for rules and regulations; to change provisions for reimbursement for costs related to certain handicapped children; to authorize cooperative agreements; to require certain pilot projects; to change and provide reporting requirements; to change provisions relating to preparation and review of plans and budgets; to harmonize provisions; and to repeal the original sections.

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

Section 1. The Legislature hereby finds and declares that there is a need to establish a process and criteria to assess, identify, and verify children who may require special education. Research-based criteria and a rational process for the assessment of children who may require special education will lead to greater equity, consistency, and efficiency in the identification of and the provision of services to such handicapped children. It is the intent of the Legislature that all children who require special education services shall be identified and verified pursuant to such criteria and process.

Sec. 2. The State Board of Education shall by January 1, 1987, adopt and promulgate rules and regulations to be effective August 1, 1987, establishing criteria for the assessment, identification, and verification of all handicapping conditions specified in section 43-604 to the extent that such handicapping conditions are consistent with federal law and regulation. The rules and regulations shall include provisions for the maximum possible utilization of regular education programs and personnel for applicants whose learning problems do not meet the criteria

established for the identification and verification of handicapped children.

Sec. 3. Each school district shall include only students identified and verified pursuant to sections 1 and 2 of this act in special education programs and shall not provide special education services pursuant to Chapter 43, article 6, to any child who has not been so identified and verified, except that the verification requirements established by rules and regulations adopted and promulgated by the State Board of Education shall not apply to students who have been included in special education programs pursuant to Chapter 43, article 6, and rules and regulations adopted and promulgated pursuant thereto in effect immediately prior to the effective date of this act until such time as such children are required to be reverified for special education.

Sec. 4. (1) It is the intent of the Legislature that transportation services for handicapped children prescribed in section 43-607 shall be provided in the most cost-efficient manner consistent with the goal of providing free appropriate special education to all such children. The Legislature finds that educational service units and special education cooperatives created by school districts and recognized by the State Department of Education are in a unique position to improve the coordination and efficiency of transportation services in all areas of the state. It is the intent of the Legislature to authorize and encourage school districts, educational service units, and special education cooperatives to jointly plan, coordinate, and, where feasible, provide transportation services for handicapped children. The State Department of Education shall review and approve, approve with modifications, or disapprove all transportation applications to ensure the implementation of the most cost-efficient transportation system, consistent with the goal of providing free appropriate special education to all children.

(2) School districts, educational service units, and special education cooperatives created by school districts and recognized by the State Department of Education are hereby authorized to jointly plan, coordinate, and, where feasible, provide special education transportation services prescribed in section 43-607. Any educational service unit or special education cooperative may enter into a cooperative arrangement with a board of education of a school district for the provision of such transportation

services. Such arrangement shall be approved by the State Department of Education, and upon approval of the arrangement, the educational service unit or special education cooperative providing the transportation services shall be eligible to receive direct reimbursement for such services pursuant to section 43-611.

Sec. 5. (1) The State Department of Education shall conduct pilot projects using regional assessment teams for the assessment, identification, and verification of children who may require special education pursuant to Chapter 43, article 6, and for the development of individual educational plans for each child so identified and verified. The department shall establish guidelines for the use and designation of regional assessment teams by educational service units and special education cooperatives created by school districts which elect to participate in such pilot projects.

(2) The State Department of Education shall, by December 1, 1988, report to the Legislature regarding the success or failure of the regional assessment teams. The report shall address the cost efficiency of the regional assessment teams, the effectiveness of such teams in making the assessment of handicapped children and planning programs for such children, and the sensitivity of the regional assessment teams to local needs and resources.

Sec. 6. That section 43-611, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-611. Sufficient funds shall be appropriated by the Legislature to carry out ~~the provisions of sections 43-601 and 43-604 to 43-616-01~~ 43-611.01, such funds to be channeled through the office of the State Department of Education, and the department shall be authorized to expend such funds upon proper vouchers approved by the department and warrants issued by the Director of Administrative Services for (1) financial reimbursement to local school districts, educational service units, special education cooperatives created by school districts, agencies, and parents or guardians, including full reimbursement for the amount expended pursuant to ~~sections section~~ section 43-607 and ~~43-616-01~~ for actual transportation expenses per year for handicapped and mentally retarded children, (2) instructional aids and consultative, supervisory, research, and testing services to local school districts, and (3) salaries, wages, maintenance,

supplies, travel, and other expenses essential to carrying out the provisions for special education. Applications for state reimbursement for actual transportation expenses shall be submitted annually on a date prescribed by the State Department of Education to the department on forms prescribed by the department. Amendments to applications for actual transportation expenses shall be submitted on dates prescribed by the department during the school year in which the original application was made.

Sec. 7. That section 43-643, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-643. In order to assist the school districts in determining the needs for special education programs in their districts and the establishment of needed programs, all school boards within the State of Nebraska are hereby directed to report on or before February 1, 1974, on forms provided by the State Department of Education, all children who reside in the respective school districts who would benefit from special education programs together with a plan for providing special education programs for the school years 1973-1974 and 1974-1975, and budgets therefor. All school boards shall report annually on a date prescribed by the State Department of Education to the department on forms provided by the department (1) plans for special education program expansions, revisions, or reductions and (2) budget information for special education programs. Cooperatives of school districts or educational service units applying for reimbursement for programs pursuant to section 43-611, 43-646.02, or 43-648 shall also report unified plans and budget information pursuant to this section. The plan plans and budget forms shall conform to guidelines as provided in section 43-649. The identification of children, special education program plans, and budget requests shall be submitted annually, on or before October 31, to the State Department of Education. The State Department of Education shall review and take action to approve, approve with modifications, or disapprove the plan plans for expansions in special education programs of the school district, cooperative of school districts, or educational service unit, and its budgets. Supplementary amendments to any program plans and budgets previously approved by the State Board of Education may be submitted prior to February 1 on dates specified by the department during the same school year and shall be subject to the same review and approval as

the initial plans and budgets. The State Board of Education shall approve, approve with modifications, or disapprove all supplementary amendments to program plans and budget requests, received prior to February 1 at its May meeting. All final financial reports on special education costs, the actual number of children served, and the handicapping ~~condition~~ conditions of such children shall be reported to the State Department of Education by October 31 of each year for the preceding school year on forms prescribed by the State Department of Education. Any program that provides residential care shall show the costs of such care separately from the costs of the education program.

The State Board of Education shall, for reimbursement purposes, approve all amendments to the 1975-1976 plans and budgets prior to October 31, 1976, and any district which has not submitted a 1975-1976 plan and budget shall submit such plan and budget for board approval prior to October 31, 1976.

The State Department of Education shall also review the budget request and approve a budget for the special education programs. If a servicing agency chooses to exceed the budget approved by the State Department of Education, costs in excess of the approved budget shall not be reimbursed by the State Department of Education.

Sec. 8. That section 43-646.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-646.02. The State Department of Education shall provide grants for the costs of the special education programs, approved by the State Department of Education, to the school district of residence for handicapped children of less than five years of age, as defined in section 43-604. Educational service units or cooperatives of school districts recognized as regional planning entities by the State Board of Education pursuant to section 43-646.08 shall be eligible to receive grants for cooperative programs for such handicapped children of less than five years of age if such educational service units or cooperatives have complied with the reporting and approval requirements of section 43-646.08. Commencing on September 1, 1979, the The grants shall be one hundred per cent of the costs of such programs and shall continue to be one hundred per cent as long as the funding for such grants comes from federal funds. If the federal funding is inadequate at any time to pay one hundred per cent of the costs of such programs, the amount of the grant provided by the

department shall be ninety per cent of such costs. For the period commencing on April 19, 1980, and ending June 30, 1980, the amount yet to be received as payments for 1979-80 programs shall be made by the State Department of Education to the resident school district in as nearly as possible equal monthly payments. Thereafter, the The grant payments shall be made by the State Department of Education to the resident school district, educational service unit, or regional planning entity recognized by the State Board of Education pursuant to section 43-646.08 each year in seven as nearly as possible equal monthly payments between the fifth and twentieth day of each month beginning in December 1980 and each December, thereafter.

Sec. 9. That section 43-646.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-646.08. Each school district shall demonstrate participation in a plan of services for handicapped children of less than five years of age. Such plans shall be prepared on a regional basis as determined by the State Department of Education and updated annually. The contents of the plans shall include, but not be limited to:

(1) A listing of the programs existing during the initial planning period, the personnel involved, and their qualifications;

(2) A census by name, resident school district, and handicapping condition of all children less than five years of age;

(3) A procedure for identification and referral of handicapped children;

(4) An agreement setting forth the responsibilities and level of participation of each servicing agency within the region; and

(5) Budgets for the proposed program.

Plans for program expansions, revisions, and reductions and budget information on programs for handicapped children of less than five years of age shall be reported annually on dates specified by the State Department of Education. The content of such plans and the required budget information shall be prescribed by the department.

The State Board of Education shall annually approve, the plans which shall be submitted no later than December 1, 1978, and February 1 of each year thereafter. Based upon the submitted plans, the State Department of Education shall submit a budget request to the Department of Administrative Services no later than

December 31, 1978, for the funds required to provide appropriate services to the handicapped children identified. Such budget request shall be developed in cooperation with the Department of Public Institutions, Office of Mental Retardation approve with modifications, or disapprove the requests for program expansions. Supplementary amendments to any program plans and budgets previously approved by the State Board of Education may be submitted on dates specified by the department during the same school year and shall be subject to the same review as the initial plans and budgets.

Sec. 10. That section 43-648, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-648. Effective July 1, 1976, the State Department of Education shall reimburse each school district for ninety per cent of the allowable excess cost of the preceding year's special education programs. Cooperatives of school districts or educational service units shall also be eligible for reimbursement for cooperative programs pursuant to this section if such cooperatives or educational service units have complied with the reporting and approval requirements of section 43-643 for cooperative programs which were offered the preceding year, as defined in section 43-645. The payments shall be made by the State Department of Education to the resident school district, cooperative of school districts, or educational service unit each year in seven as nearly as possible equal monthly payments between the fifth and twentieth day of each month beginning in December 1976 and each December thereafter.

Sec. 11. That section 43-649, Revised Statutes Supplement, 1985, be amended to read as follows:

43-649. Each plan for the provision of The State Department of Education shall coordinate information reporting requirements for special education programs with other educational data reporting requirements of the department to the extent possible. The plans for program expansions, revisions, and reductions shall contain the information required by the department. The information on special education programs shall include the following:

- (1) A description of the types of services to be offered and the number of students receiving the services;
- (2) The servicing agencies and the respective

services offered;

(3) A five-year projection of needs for each service group commencing with the fiscal year for which the plan is adopted. This projection shall include a priority listing of the resources required to meet the needs of each service group and the estimated cost of developing and acquiring these resources;

(3) (4) A detailed presentation of all expected expenditures by source of funds;

(4) (5) A detailed description of the methodology to be used by the agency for evaluating the results of the programs and service being provided for each service group. This methodology shall permit program evaluation including the relative cost and effectiveness of alternative forms and patterns of services;

(5) (6) A description of the procedures used to insure that students are placed in appropriate educational programs. Such procedures shall be reviewed for approval by the State Department of Education; and

(7) (6) A sample of the written materials to be used to provide parents with specific information about complaint and appeal rights and procedures.

Sec. 12. That original sections 43-611, 43-643, 43-646.02, 43-646.08, and 43-648, Reissue Revised Statutes of Nebraska, 1943, and section 43-649, Revised Statutes Supplement, 1985, are repealed.