

LEGISLATIVE BILL 486

Approved by the Governor May 5, 1977

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

AN ACT to adopt the Private Vocational Educational Authorization Act of 1977; to provide severability; to provide an operative date; and to repeal Chapter 79, article 18, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto.

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

Section 1. This act shall be known and may be cited as the Private Vocational Educational Authorization Act of 1977.

Sec. 2. It is the purpose of this act to provide for the protection, education, and welfare of the citizens of the State of Nebraska, its private vocational educational institutions, and its students by:

(1) Establishing minimum standards concerning quality of education, ethical and business practices, health and safety, and fiscal responsibility in order to protect against substandard, transient, unethical, deceptive, or fraudulent institutions and practices;

(2) Prohibiting the granting of false educational credentials;

(3) Prohibiting misleading literature, advertising, sollicitation, or representation by educational institutions or their agents;

(4) Providing for the preservation of essential records; and

(5) Providing certain rights and remedies to the consuming public and the board necessary to effectuate the purposes of this act.

Sec. 3. As used in this act, unless the context otherwise requires:

(1) Private vocational educational institution shall mean vocational technical, home study, business, or other school, or other organization or person, offering vocational credentials, or offering instruction or

educational services for attainment of occupational objectives;

(2) Operate an educational institution shall mean to establish, keep, or maintain any facility or location in this state where, from, or through which education is offered or given for occupational objectives or educational credentials are offered or granted, and shall include contracting with any person, group, or entity to perform any such act;

(3) Authorization to operate shall mean approval of the board to operate or to contract to operate a private vocational educational institution in this state;

(4) Offer shall include, in addition to its usual meaning, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described;

(5) Grant shall mean awarding, selling, conferring, bestowing, or giving;

(6) Education or educational services shall mean, but not be limited to, any class, course, or program of vocational training, instruction, or study;

(7) Agent shall mean any person owning any interest in, employed by, or who regularly represents for remuneration, a private vocational educational institution within or outside this state who, by solicitation made in this state, enrolls or seeks to enroll a resident of this state for education offered by such institution, or offers to award educational credentials, for remuneration, on behalf of any such institution, or who holds himself out to residents of this state as representing a private vocational educational institution;

(8) Agent's permit shall mean a nontransferable written authorization issued to a natural person by the board which allows that person to solicit or enroll any resident of this state for education in a private vocational educational institution;

(9) Entity shall include, but not be limited to, any company, firm, society, association, partnership, corporation, or trust; and

(10) Board shall mean the State Board of Education.

Sec. 4. The following education and educational institutions are exempted from the provisions of this act:

(1) Institutions exclusively offering instruction at any or all levels from preschool through the twelfth grade;

(2) Education sponsored by a bona fide trade, business, professional, or fraternal organization, solely for that organization's membership or offered without charge;

(3) Education solely avocational or recreational in nature, as determined by the board, and institutions offering such education exclusively;

(4) Education offered by eleemosynary institutions, organizations, and agencies, if such education is not advertised or promoted as leading toward occupational objectives;

(5) Postsecondary educational institutions established, operated, and governed by this state or its political subdivisions;

(6) Institutions or organizations offering education or instruction which are licensed and regulated by agencies of this state other than the board, as of the effective date of this act, except that such institutions or organizations shall not be exempt from the provisions of this act with respect to agent's permits; and

(7) Private vocational educational institutions whose total tuition and fees are less than one hundred fifty dollars per person per course and which employ not less than fifty per cent of the students within four months after completing the course of study.

Sec. 5. The board shall administer the provisions of this act and for the purposes thereof shall employ such personnel as may be necessary. To effectuate the purposes of this act, the board may request from any department, division, board, bureau, commission, or other agency of the state, and the same shall provide, such information as will enable the board to exercise properly its powers and perform its duties under this act.

Sec. 6. The board shall have the following powers and duties in the administration of this act:

(1) To establish minimum criteria in conformity with section 8 of this act, including quality of

education, ethical and business practices, health and safety, and fiscal responsibility. Applicants for authorization to operate, or for an agent's permit, shall meet minimum criteria before such authorization or permit may be issued or to continue such authorization or permit in effect. The criteria to be developed under this subdivision shall be such as will effectuate the purposes of this act but will not unreasonably hinder legitimate educational innovation;

(2) To receive, investigate as it may deem necessary, and act upon applications for authorization to operate private vocational educational institutions and applications for agent's permits;

(3) To maintain a list of private vocational educational institutions and agents authorized to operate in this state under the provisions of this act. Such list shall be available for the information of the public;

(4) To receive and cause to be maintained as a permanent file copies of academic records in conformity with section 48 of this act; and

(5) To promulgate rules, regulations, and procedures necessary and appropriate for the conduct of its work and the implementation of this act. No rules, regulations, or procedures may be promulgated which would require private vocational educational institutions to meet standards more stringent than those deemed necessary to be in compliance with section 10 of this act.

Sec. 7. The board shall appoint an advisory council of five representatives of private vocational educational institutions. Members of the council shall include representatives from a business school, trade or technical school, a better business bureau, and two other distinct areas of education. Members of the council shall serve staggered terms of three years each as established by the board at the time of initial appointment. If a vacancy occurs on the council, the board shall appoint a successor in the same category as his predecessor. The advisory council shall have the following responsibilities:

(1) To advise the board in its administration of this act;

(2) To review the rules and regulations adopted by the board and make recommendations with respect thereto; and

(3) To advise the board with respect to grievances and complaints.

Sec. 8. In establishing the criteria required by section 6 of this act, the board shall observe and require that a private vocational educational institution must be maintained and operated, or in the case of a new institution it must demonstrate that it can be maintained and operated, in compliance with the following minimum standards:

(1) That the quality and content of each course or program of instruction, training, or study are such as may reasonably and adequately achieve the stated objective for which the course or program is offered;

(2) That the institution has adequate space, equipment, instructional materials, and personnel to provide education of good quality;

(3) That the education and experience qualifications of directors, administrators, supervisors, and instructors are such as may reasonably insure that the students will receive education consistent with the objectives of the course or program of study;

(4) That the institution provides students and other interested persons with descriptive literature containing information describing the programs offered, program objectives, length of programs, schedule of tuition, fees, and all other charges and expenses necessary for completion of the course or study, cancellation and refund policies, and such other material facts concerning the institution and the program or course of instruction as are reasonably likely to affect the decision of the student to enroll therein, together with any other disclosures specified by the board as defined in the rules and regulations, which information must be provided to prospective students prior to enrollment;

(5) That upon satisfactory completion of training the student is given appropriate educational credentials by the institution indicating that the course or courses of instruction or study have been satisfactorily completed by the student;

(6) That adequate records are maintained by the institution to show attendance, progress, and grades, and that satisfactory standards are enforced relating to attendance, progress, and performance;

(7) That the institution is maintained and operated in compliance with all pertinent ordinances and laws, including rules and regulations adopted pursuant thereto, relative to the safety and health of all persons upon the premises;

(8) That the institution is financially sound and capable of fulfilling its commitments to students;

(9) That neither the institution nor its agents engage in advertising, sales, collection, credit, or other practices of any type which are false, deceptive, misleading, or unfair;

(10) That the student housing owned, maintained, or approved by the institution, if any, is appropriate, safe, and adequate, and meets all local housing ordinances; and

(11) That the institution has a fair and equitable cancellation and refund policy as defined in the rules and regulations.

Sec. 9. An applicant for an agent's permit shall be an individual of good reputation and character and shall represent only a private vocational educational institution or institutions which meet the minimum standards established in section 8 of this act and the criteria established under section 6 of this act.

Sec. 10. Accreditation by national or regional accrediting agencies recognized by the United States Office of Education or by state agencies shall be accepted by the board as evidence of compliance with the minimum standards established in section 8 of this act and the criteria to be established under section 6 of this act. Accreditation by a recognized, specialized accrediting agency shall be accepted as evidence of such compliance only as to the portion or program of an institution accredited by such agency if the institution as a whole is not accredited.

Sec. 11. No person, agent, group, or entity of whatever kind, alone or in concert with others, shall:

(1) Operate in this state a private vocational educational institution not exempted from the provisions of this act unless the institution has a currently valid authorization to operate issued pursuant to this act;

(2) Offer, as or through an agent, enrollment or instruction in, or the granting of educational credentials from, a private vocational educational

institution not exempted from this act, whether such institution is within or outside this state, unless such agent is a natural person and has a currently valid agent's permit issued pursuant to this act, nor accept contracts or enrollment applications from an agent who does not have a current permit as required by this act, but the board may promulgate rules and regulations to permit the rendering of legitimate public information services without such permit;

(3) Instruct or educate, or offer to instruct or educate, including advertising or soliciting for such purpose, enroll or offer to enroll, contract or offer to contract with any institution or party to perform any such act in this state, whether such person, agent, group, or entity is located within or without this state, unless such person, agent, group, or entity observes and is in compliance with the minimum standards set forth in section 8 of this act, the criteria established by the board pursuant to section 6 of this act, and the rules and regulations adopted by the board pursuant to subdivision (5) of section 6 of this act; or

(4) Grant, or offer to grant, educational credentials without authorization to do so from the board.

Sec. 12. Each private vocational educational institution desiring to operate in this state shall make application to the board upon forms to be provided by the board. The application shall be accompanied by descriptive literature published, or proposed to be published by the institution, containing the information specified in subdivision (4) of section 8 of this act, including information required by rules and regulations of the board. The application shall also be accompanied by a surety bond as provided in section 42 of this act and the application fee provided in section 46 of this act.

Sec. 13. Following review of such application and any further information submitted by the applicant or required by the board, and such investigation of the applicant as the board may deem necessary or appropriate, the board shall either grant or deny authorization to operate. A grant of authorization to operate may be on such terms and conditions as the board may specify.

Sec. 14. The authorization to operate shall be in a form approved by the board and shall state in a clear and conspicuous manner at least the following information:

(1) The date of issuance, effective date, and term of the authorization;

(2) The correct name and address of the institution so authorized;

(3) The authority for authorization and conditions thereof; and

(4) Any limitation of authorization as deemed necessary by the board.

The term for which authorization is given shall not extend for more than one calendar year.

Sec. 15. The authorization to operate shall be issued to the owner, or governing body, of the applicant institution, and shall be nontransferable. In the event of a change in ownership of the institution, the new owner or governing body must, within ten days after the change of ownership, apply for a new authorization to operate, and in the event of failure to do so the institution's authorization to operate shall terminate. An application for a new authorization to operate by reason of change in the ownership of the institution shall be deemed an application for renewal of the institution's authorization to operate. Ownership for purposes of this section shall mean (1) ownership of a controlling interest in the institution, or (2) if the institution is owned or controlled by a corporation or other legal entity other than a natural person or persons, ownership of a controlling interest in the legal entity owning or controlling such institution.

Sec. 16. At least thirty days prior to the expiration of an authorization to operate, and upon notification by the board, the institution shall complete and file with the board an application form for renewal of its authorization to operate. The renewal application shall be reviewed and acted upon as provided for an initial application. No authorization issued to any private vocational educational institution shall be renewed unless such institution has been accredited by the board within five years of the date of its initial authorization to operate, except that any institution legally operating on the effective date of this act shall have five years from such date in which to apply for and receive accreditation or lose its authorization.

Sec. 17. An institution not yet in operation when its application for authorization to operate is filed may not begin operation until receipt of authorization. The authorization shall be an inaugural



authorization valid for one year and upon showing to the satisfaction of the board that it has fully complied with the provisions of sections 12 to 16 of this act, the institution will be eligible for a regular authorization. An institution in operation when its application for authorization to operate is filed may continue operation until its application is acted upon by the board, and thereupon its authority to operate shall be governed by the action of the board. In any event, the board may issue provisional authorization to operate containing such limitations as to time, procedures, functions, or other conditions as the board may deem necessary.

Sec. 18. Any private vocational educational institution offering instruction in the State of Nebraska may, within five years of its initial authorization to operate, apply to the board for the accreditation of courses of instruction offered by such institution. No course of education or training which is offered by a private vocational educational institution shall be accredited unless the institution submits to the board a written application for accreditation in accordance with the provisions of this act. Such application shall be accompanied by a fee of twenty-five dollars.

Sec. 19. The board may accredit the courses of instruction offered by a private vocational educational institution when the institution and its courses are found upon investigation to have met the minimum standards as set forth in section 8 of this act. The investigation of private vocational educational institutions for purposes of accreditation shall include inspections by the board as provided by its rules and regulations.

Sec. 20. The board, upon determining that a private vocational educational institution has complied with all the requirements of this act and the rules and regulations of the board, shall issue a certificate of accreditation to the institution and authority to award associate degrees, and a letter clearly setting forth the courses of instruction offered by the institution which have satisfied all the requirements for accreditation. Any private vocational educational institution which is accredited pursuant to section 10 of this act and which is and has been awarding associate degrees for one year prior to the operative date of this act is authorized to continue awarding such degrees if such institution complies with section 10 of this act. Unless disapproved for failure to meet the requirements for accreditation on a continuing basis as provided for in this act and as defined by the rules and regulations, accreditation shall be valid for a period of three years following the

effective date appearing on the certificate. The application for reaccreditation shall be accompanied by the applicable fee. The board shall annually compile a list of the institutions and courses accredited under this section, and make such lists available to the public.

Sec. 21. Any private vocational educational institution having courses accredited which ceases to meet any of the requirements for accreditation shall be notified of such noncompliance by registered or certified mail, giving such institution ten days' notice of a hearing before the board to show cause why the accreditation of its courses should not be withdrawn. Upon such hearing, if the institution fails to show that corrective action has been taken, the institution shall be notified by registered or certified mail that the accreditation of its courses has been withdrawn.

Sec. 22. Each person desiring to solicit or perform the services of an agent in this state shall make application to the board upon forms to be provided by the board. The application shall be accompanied by evidence of the good reputation and character of the applicant and shall state the institution or institutions which the applicant intends to represent. An agent representing one institution in a single location must obtain a separate agent's permit for each additional location represented. If any institution which the applicant intends to represent does not have authorization to operate in this state, the application shall be accompanied by the information required of institutions making application for such authorization to operate, and evidence to show that its place of business outside this state has been licensed or approved for operation by the appropriate state agency in the state in which it is domiciled. When a state of domicile has no authorization law for private vocational educational institutions, an agent's permit shall not be issued to an agent of such institution unless the institution has been accredited either by an accrediting association recognized by the United States Office of Education, or by the board following an onsite evaluation of the institution with all costs of the evaluation borne by the institution. The application for an agent's permit shall also be accompanied by evidence of a surety bond as provided in section 43 of this act and payment of the application fee provided in section 46 of this act.

Sec. 23. Following review of such application and any further information submitted by the applicant or required by the board, and such investigation of the applicant as the board may deem necessary or appropriate,

the board shall either grant or deny an agent's permit to the applicant.

Sec. 24. The agent's permit shall be in a form approved by the board and shall state in a clear and conspicuous manner at least the following information:

(1) The date of issuance, effective date, and term;

(2) The correct name and address of the agent; and

(3) The institution which such agent is authorized to represent.

The term for which an agent's permit is issued shall not extend for more than one calendar year.

Sec. 25. At least thirty days prior to the expiration of an agent's permit, the agent shall complete and file with the board an application form for renewal thereof. The renewal application shall be reviewed and acted upon as provided for an initial application.

Sec. 26. If the board, upon review and consideration of an application for authorization to operate or for an agent's permit, or for renewal thereof, shall determine that the applicant fails to meet the criteria established as provided in this act, the board shall so notify the applicant, setting forth the reasons therefor in writing, and shall deny the application.

Sec. 27. The board may grant to an applicant for renewal an extension of time of reasonable duration in which the applicant may eliminate the reason or reasons for denial contained in the statement of denial if the applicant has demonstrated to the satisfaction of the board his desire to meet the requirements of section 8 of this act and the criteria established pursuant to section 6 of this act and if, in the judgment of the board, it would be reasonably possible for the applicant to meet such requirements and criteria within such time.

Sec. 28. If the board denies an application for an agent's permit or for renewal thereof, it shall notify the institution which the agent represented or proposed to represent, according to the records of the board, including the reasons for denial.

Sec. 29. Any person aggrieved by a decision of the board respecting denial of an authorization to operate, or of an agent's permit, or the placing of

conditions thereon, whether on initial application or an application for renewal, shall have the right to a hearing and review of such decision by the board as provided in sections 30 to 32 of this act.

Sec. 30. If, upon written notification of any such action taken by the board, the aggrieved party desires a hearing and review, such party shall so notify the board in writing within ten days after the giving of notice of such action. If such notice is not given, the action shall be deemed final. Upon receipt of such notice from the aggrieved party, the board shall notify the advisory council to review the matter and make recommendations to the board within thirty days. Upon receipt of such recommendations, the board shall fix the time and place for a hearing and shall notify the aggrieved party thereof.

Sec. 31. At such hearing, the party may employ counsel, shall have the right to hear the evidence upon which the action is based, and may present evidence in opposition to the board's action or in extenuation or mitigation. The hearing shall be conducted in accordance with Chapter 84, article 9, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto. Any member of the board may preside except when a clear conflict of interest may be demonstrated.

Sec. 32. A decision of the board following hearing, or on expiration of the time for demand for a hearing if no such demand is filed, shall be deemed final, subject to the right of judicial review provided in this act. All matters presented at any such hearing shall be acted upon promptly by the board, and the board shall notify all parties in writing of its decision, which shall include a statement of findings and conclusions upon all material issues of fact, law, or discretion presented at the hearing, and the appropriate rule, order, sanction, relief, or denial thereof.

Sec. 33. An authorization to operate or an agent's permit may be revoked or made conditional after its issuance if the board has reasonable cause to believe that the holder thereof has violated or is violating this act or any rules and regulations promulgated under this act. Prior to such revocation or imposition of condition, the board shall notify the holder of the authorization or permit in writing of the impending action, setting forth the grounds for the action contemplated to be taken and advising the holder that if a hearing is requested in writing within ten days of receipt of the notice, the board shall set a time and place for a hearing at which the holder may be heard in

response to the allegation of noncompliance.

Sec. 34. If a hearing is requested, it shall be conducted as provided in sections 30 and 31 of this act. The decision of the board shall be made as provided in section 32 of this act, and shall be deemed final, subject to the right of judicial review provided in this act. If an agent's permit is revoked or conditions imposed thereon, the board shall notify the institution which the agent was permitted to represent, as shown in the records of the board, in addition to the notice required to be given to the agent and any other parties to the hearing.

Sec. 35. Any person claiming damage or loss as a result of any act or practice by a private vocational educational institution or its agent, or both, which is a violation of this act or of the rules and regulations promulgated under this act, may file with the board a verified complaint against such institution or against its agent or both. The complaint shall set forth the alleged violation and shall contain such other information as may be required by the board. A complaint may also be filed with the board by the Commissioner of Education or the Attorney General.

Sec. 36. The board may consider a complaint after ten days' written notice by either registered or certified mail, return receipt requested, to such institution or to such agent, or both, as appropriate, giving notice of a time and place for hearing thereon. Such hearing shall be conducted in accordance with Chapter 84, article 9, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto.

Sec. 37. If, upon all the evidence at the hearing, the board shall find that a private vocational educational institution or its agent, or both, has engaged in or is engaging in any act or practice which violates this act or the rules and regulations promulgated under this act, the board shall issue and cause to be served upon such institution or agent, or both, an order requiring such institution or agent, or both, to cease and desist from such act or practice. The board may also, as appropriate, based on its own investigation or the evidence adduced at such hearing, or both, commence an action to revoke an institution's authorization to operate or an agent's permit.

Sec. 38. Any person aggrieved or adversely affected by any final board action or by any penalty imposed by the board may obtain judicial review of such action as provided in sections 38 to 41 of this act. An

action for judicial review may be commenced in any court of competent jurisdiction within thirty days after such board action becomes effective.

Sec. 39. Upon a finding that irreparable injury would otherwise result, the board, upon application therefor, shall postpone the effective date of its action pending judicial review, or the reviewing court, upon application therefor and upon such terms and upon such security, if any, as the court shall find necessary, may issue appropriate process to postpone the effective date of the board's action or to preserve the rights of the parties pending conclusion of the review proceedings.

Sec. 40. The record on review, unless otherwise stipulated by the parties, shall include the original or certified copies of all pleadings, applications, evidence, exhibits, and other papers presented to or considered by the board, and the decision, findings, and action of the board. Evidence may be taken independently by the court as to alleged procedural irregularities.

Sec. 41. If the court finds no error, it shall affirm the board's action. If it finds that such action was arbitrary or capricious, a denial of statutory right, contrary to constitutional right, power, privilege, or immunity, in excess of statutory authority, purposes, or limitation, not in accord with the procedures prescribed in this act or otherwise required by law, an abuse or clearly unwarranted exercise of discretion, unsupported by substantial evidence when the record is considered as a whole, or otherwise contrary to law, the court shall hold unlawful and set aside the board action and afford such relief as may be appropriate. The decision of the trial court shall be subject to appellate review in the same manner and with the same effect as in appeals from a final judgment or decree in any other civil action.

Sec. 42. At the time application is made for authorization to operate, or for renewal thereof, the board may require the private vocational educational institution making such application to file with the board a good and sufficient surety bond in the penal sum of twenty thousand dollars or other security agreement deemed satisfactory by the board. The bond or agreement shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state. The bond or agreement shall be conditioned to provide indemnification to any student or enrollee or his parent or guardian determined to have suffered loss or damage as a result of any act or practice which is a violation of this act by the private vocational educational institution, and that the surety shall pay

any final judgment rendered by any court of this state having jurisdiction, upon receipt of written notification thereof. Regardless of the number of years that such bond or agreement is in force, the aggregate liability of the surety thereon shall in no event exceed the penal sum of the bond or agreement. The bond or agreement may be continuous.

Sec. 43. The application for an agent's permit shall be accompanied by a good and sufficient surety bond in a penal sum of five thousand dollars. The bond shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state. The bond may be in blanket form to cover more than one agent for a private vocational educational institution, but it shall cover each agent for the institution in a penal sum of five thousand dollars. The bond shall be conditioned to provide indemnification to any student, enrollee, or his or her parents or guardian determined to have suffered loss or damage as a result of any act or practice which is a violation of this act by the agent, and that the surety shall pay any final judgment rendered by any court of this state having jurisdiction, upon receipt of written notification thereof. Regardless of the number of years that such bond is in force, the aggregate liability of the surety thereon shall in no event exceed the penal sum thereof. The bond may be continuous.

Sec. 44. The surety bond or agreement shall cover the period of the authorization to operate or the agent's permit, as appropriate, except when a surety shall be released as provided in this section. A surety on any bond or agreement filed under the provisions of this act may be released therefrom after such surety shall serve written notice thereof on the board thirty days prior to the release. Such release shall not discharge or otherwise affect any claim theretofore or thereafter filed by a student or enrollee or his parent or guardian for loss or damage resulting from any act or practice which is a violation of this act alleged to have occurred while the bond or agreement was in effect, nor for an institution's ceasing operations during the term for which tuition has been paid while the bond or agreement was in force.

Sec. 45. Authorization for an institution to operate and an agent's permit shall be suspended by operation of law when the institution or agent is no longer covered by a surety bond or agreement as required by this act. The board shall cause the institution or agent, or both, to receive at least thirty days' written notice prior to the release of the surety, to the effect

that the authorization or permit shall be suspended by operation of law until another surety bond or agreement shall be filed in the same manner and like amount as the bond or agreement being terminated.

Sec. 46. All fees collected pursuant to this act shall be deposited in the state treasury to the credit of the General Fund. No fees collected under the provisions of this act shall be subject to refund. The fees to be collected by the board under this act shall accompany an application for authorization to operate or an agent's permit, or for accreditation of courses in accordance with the following schedule:

(1) The initial application fee for private vocational educational institutions shall be twenty-five dollars;

(2) The annual report renewal fee for a private vocational educational institution shall be twenty-five dollars;

(3) The initial fee for an agent's permit shall be ten dollars;

(4) The annual renewal fee for an agent's permit shall be ten dollars; and

(5) The initial or renewal fee for accreditation shall be twenty-five dollars. The cost of onsite survey shall be borne by the institution.

Sec. 47. When any state imposes upon an applicant located in this state a higher bond or fee requirement than those specified in this act, the bond and fee requirements of this act shall, for applicants located in such state, be increased to equal those imposed by that state on an applicant located in this state.

Sec. 48. If any private vocational educational institution now or hereafter operating in this state proposes to discontinue its operation, the chief administrative officer of such institution shall cause to be filed with the board the original or legible true copies of all records of such institution as may be specified by the board. Such records shall include, as a minimum, such information as is customarily required when considering students for transfer or advanced study. If it appears to the board that any such records of an institution discontinuing its operations are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the board, the board may seize and take



possession of such records, on its own motion, and without order of court. The board shall maintain or cause to be maintained a permanent file of such records coming into its possession.

Sec. 49. If the person to whom educational services are to be rendered or furnished by a private vocational educational institution is a resident of this state at the time any contract relating to payment for such services, or any note, instrument, or other evidence of indebtedness relating to payment for such services, or any note, instrument, or other evidence of indebtedness relating thereto, is entered into, the provisions of sections 49 to 53 of this act shall govern the rights of the parties to such contract or evidence of indebtedness. In such event the following agreements entered into in connection with the contract or the giving of such evidence of indebtedness shall be invalid:

- (1) That the law of another state shall apply;
- (2) That the maker or any person liable on such contract or evidence of indebtedness consents to the jurisdiction of another state;
- (3) That another person is authorized to confess judgment on such contract or evidence of indebtedness; and
- (4) That fixes venue.

Sec. 50. No note, instrument, or other evidence of indebtedness, or contract relating to payment for education or educational services shall be enforceable in the courts of this state by (1) any private vocational educational institution operating in this state unless the institution shall have received authorization to operate under the provisions of this act, nor (2) any private vocational educational institution having an agent or agents in this state unless any and all agents who enrolled or sought to enroll the person to whom such services were to be rendered, or to whom educational credentials were to be granted, had an agent's permit at the time of their contract with such person.

Sec. 51. Any lending agency extending credit or lending money to any person for tuition, fees, or charges whatever of a private vocational educational institution for educational or other services or facilities to be rendered or furnished by the institution shall cause any note, instrument, or other evidence of indebtedness taken in connection with such loan or extension of credit to be conspicuously marked on the face thereof, Student Loan.

If such lending agency fails to do so, it shall be liable for any loss or damage suffered or incurred by any subsequent assignee, transferee, or holder of such evidence of indebtedness on account of the absence of such notation.

Sec. 52. Notwithstanding the presence or absence of the notation required by section 51 of this act, and notwithstanding any agreement to the contrary, the lending agency making such loan or extending such credit, and any transferee, assignee, or holder of such evidence of indebtedness shall be subject to all defenses and claims which could be asserted against the private vocational educational institution which was to render or furnish such services or facilities by any party to the evidence of indebtedness or by the person to whom such services or facilities were to be rendered or furnished up to the amount remaining to be paid thereon.

Sec. 53. For purposes of sections 51 and 52 of this act, lending agency shall mean any private vocational educational institution, or any person, group, or entity controlling, controlled by, or held in common ownership with, such institution, or regularly lending money to, or to students of, such institution.

Sec. 54. Any person, group, or entity, or any owner, officer, agent, or employee thereof, who shall violate the provisions of section 11 of this act, or who shall fail or refuse to deposit with the board the records required by section 48 of this act, shall be subject to a civil penalty not to exceed five hundred dollars for each violation. Each day's failure to comply with the provisions of such sections shall be a separate violation. Such fine may be imposed by any court of competent jurisdiction.

Sec. 55. Any person, group, entity, or any owner, officer, agent, or employee thereof, who shall willfully violate the provisions of section 11 of this act, or who shall willfully fail or refuse to deposit with the board the records required by section 48 of this act, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not to exceed one thousand dollars. Each day's failure to comply with the provisions of such sections shall be a separate violation. Such criminal sanction may be imposed by a court of competent jurisdiction in an action brought by the Attorney General or any county attorney.

Sec. 56. Any private vocational educational institution not exempt from this act, whether or not a resident of or having a place of business in this state,

which instructs or educates, or offers to contract to provide instructional or educational services in this state, whether such instruction or services are provided in person or by correspondence, to a resident of this state, or which offers to award or awards any educational credentials to a resident of this state, thereby submits such institution, and, if a natural person his personal representative, to the jurisdiction of the courts of this state, concerning any cause of action arising therefrom, and for the purpose of enforcement of this act by injunction pursuant to sections 57 and 58 of this act. Service of process upon any such institution subject to the jurisdiction of the courts of this state may be made by personally serving the summons upon the defendant within or outside this state, in the manner prescribed by law, with the same force and effect as if the summons had been personally served within this state. Nothing contained in this section shall limit or affect the right to serve any process as prescribed by Chapter 25, article 5, Reissue Revised Statutes of Nebraska, 1943.

Sec. 57. The Attorney General or the county attorney of any county in which a private vocational educational institution or an agent thereof is found, at the request of the board or on his own motion, may bring any appropriate action or proceeding in any court of competent jurisdiction for the enforcement of the provisions of this act.

Sec. 58. Whenever it shall appear to the board that any person, agent, group, or entity is or has been violating any of the provisions of this act or any of the lawful rules, regulations, or orders of the board, the board may, on its own motion or on the written complaint of any person, file a petition for injunction in the name of the board in any court of competent jurisdiction in this state against such person, agent, group, or entity for the purpose of enjoining such violation or for an order directing compliance with the provisions of this act, and all rules, regulations, and orders issued under this act. It shall not be necessary that the board allege or prove that it has no adequate remedy at law. The right of injunction provided in this section shall be in addition to any other legal remedy which the board may have, and shall be in addition to any right of criminal prosecution provided by law. The board shall not obtain a temporary restraining order without notice to the person, agent, group, or entity affected. The pendency of board action with respect to alleged violations of this act shall not operate as a bar to an action for injunctive relief pursuant to this section.

Sec. 59. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 60. This act shall become operative on January 1, 1978, except that necessary actions preparatory to its implementation may be taken prior to such date.

Sec. 61. That Chapter 79, article 18, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto, are repealed.