

LEGISLATIVE BILL 685

Approved by the Governor May 26, 2003

Introduced by Raikes, 25

AN ACT relating to education; to amend sections 79-717, 79-801, 79-805, 79-806, 79-807, 79-811, 79-813, 79-815, 79-827, 79-829, 79-871, 79-1239, 85-1105, 85-1108, 85-1412, 85-1603, 85-1604, 85-1620, 85-1622, 85-1640, and 85-1643, Reissue Revised Statutes of Nebraska, and sections 23-3302, 29-2264, 79-808, 79-809, 79-810, 79-814, 79-8,133, 79-8,135, 79-8,137, 79-1104, 79-1601, and 79-1605, Revised Statutes Supplement, 2002; to change, transfer, and eliminate provisions relating to certificates, permits, and criminal history record information checks; to define and redefine terms; to rename a fund; to change provisions relating to postsecondary educational institutions and private postsecondary career schools; to eliminate the Interstate Agreement on Qualification of Educational Personnel and related provisions; to harmonize provisions; to repeal the original sections; to outright repeal sections 79-893 to 79-895 and 79-8,111 to 79-8,117, Reissue Revised Statutes of Nebraska, and sections 79-812 and 79-816, Revised Statutes Supplement, 2002; and to declare an emergency.

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

Section 1. Section 23-3302, Revised Statutes Supplement, 2002, is amended to read:

23-3302. The county board of any county may contract with the educational service unit of which it is a part, with a Class II, III, IV, V, or VI school district, or with an individual who holds a Nebraska ~~Administrative and Supervisory Certificate~~ certificate to administer, to be a county school administrator for Class I school districts in the county and to perform other designated county educational activities. Any contract entered into under this section shall not exceed a period of one year. ~~and shall be effective on and after July 1, 2000.~~ The county school administrator, with the approval of the county board, shall have the authority to employ such other persons as may be necessary to assist the county school administrator in the performance of his or her duties.

Sec. 2. Section 29-2264, Revised Statutes Supplement, 2002, is amended to read:

29-2264. (1) Whenever any person is placed on probation by a court and satisfactorily completes the conditions of his or her probation for the entire period or is discharged from probation prior to the termination of the period of probation, the sentencing court shall issue an order releasing the offender from probation. Such order in all felony cases shall provide notice that the person's voting rights are not restored upon completion of probation. The order shall include information on restoring such civil rights through the pardon process, including application to and hearing by the Board of Pardons.

(2) Whenever any person is convicted of a misdemeanor or felony and is placed on probation by the court or is sentenced to a fine only, he or she may, after satisfactory fulfillment of the conditions of probation for the entire period or after discharge from probation prior to the termination of the period of probation and after payment of any fine, petition the sentencing court to set aside the conviction.

(3) In determining whether to set aside the conviction, the court shall consider:

(a) The behavior of the offender after sentencing;

(b) The likelihood that the offender will not engage in further criminal activity; and

(c) Any other information the court considers relevant.

(4) The court may grant the offender's petition and issue an order setting aside the conviction when in the opinion of the court the order will be in the best interest of the offender and consistent with the public welfare. The order shall:

(a) Nullify the conviction; and

(b) Remove all civil disabilities and disqualifications imposed as a result of the conviction.

(5) The setting aside of a conviction in accordance with the Nebraska Probation Administration Act shall not:

(a) Require the reinstatement of any office, employment, or position which was previously held and lost or forfeited as a result of the conviction;

(b) Preclude proof of a plea of guilty whenever such plea is relevant to the determination of an issue involving the rights or liabilities of someone other than the offender;

(c) Preclude proof of the conviction as evidence of the commission of the misdemeanor or felony whenever the fact of its commission is relevant for the purpose of impeaching the offender as a witness, except that the order setting aside the conviction may be introduced in evidence;

(d) Preclude use of the conviction for the purpose of determining sentence on any subsequent conviction of a criminal offense;

(e) Preclude the proof of the conviction as evidence of the commission of the misdemeanor or felony in the event an offender is charged with a subsequent offense and the penalty provided by law is increased if the prior conviction is proved;

(f) Preclude the proof of the conviction to determine whether an offender is eligible to have a subsequent conviction set aside in accordance with the Nebraska Probation Administration Act; or

(g) Preclude use of the conviction as evidence of commission of the misdemeanor or felony for purposes of determining whether an application filed or a license issued under sections 71-1901 to 71-1905 or 71-1908 to 71-1917 or a certificate issued under sections 79-806 to ~~79-816~~ 79-815 and sections 14 and 15 of this act should be denied, suspended, or revoked.

(6) Except as otherwise provided for the notice in subsection (1) of this section, this section shall be retroactive in application and shall apply to all persons, otherwise eligible in accordance with the provisions of this section, whether convicted prior to, on, or subsequent to June 11, 1993.

Sec. 3. Section 79-717, Reissue Revised Statutes of Nebraska, is amended to read:

79-717. Each Class VI school district may have an elementary school coordinator who holds a valid Nebraska ~~Administrative and Supervisory Certificate~~ certificate to administer with an endorsement in elementary education. The responsibility of the coordinator shall be to coordinate the educational programs of all Class I schools within the boundaries of the Class VI district by advising the school board and the teachers of such Class I districts.

Sec. 4. Section 79-801, Reissue Revised Statutes of Nebraska, is amended to read:

79-801. All persons holding the official title of (1) superintendent of schools, (2) principal or supervisor of an accredited school, or (3) supervisor of any special subjects or subject in which such persons actually supervise the work of other teachers in that subject or those subjects shall hold ~~either a Nebraska Administrative and Supervisory Certificate or a Nebraska Professional Administrative and Supervisory Certificate~~ a Nebraska certificate to administer.

Sec. 5. Section 79-805, Reissue Revised Statutes of Nebraska, is amended to read:

79-805. The school board or board of education shall be personally liable for all public money paid to teachers or administrators who are not qualified under sections 79-806 to ~~79-816~~ 79-815 and sections 14 and 15 of this act. A teacher or administrator violating such sections shall not recover any money for services while teaching during the time that such contract and certificate are invalid. Any person having knowledge of the employment by a school district of an uncertified teacher or administrator may prefer charges against the board.

Sec. 6. Section 79-806, Reissue Revised Statutes of Nebraska, is amended to read:

79-806. It is declared to be the purpose of sections 79-806 to ~~79-816~~ 79-815 and sections 14 and 15 of this act to provide more flexibility in the certification of qualified ~~teachers~~ educators for Nebraska schools and not to ~~increase~~ decrease any requirements for certificates to teach, provide special services, and administer in Nebraska schools.

Sec. 7. Section 79-807, Reissue Revised Statutes of Nebraska, is amended to read:

79-807. For purposes of sections 79-806 to ~~79-816~~ 79-815 and sections 14 and 15 of this act, unless the context otherwise requires:

(1) Basic skills competency means either (a) proficiency in (i) the written use of the English language, (ii) reading, comprehending, and interpreting professional writing and other written materials, and (iii) working with fundamental mathematical computations as demonstrated by successful completion of an examination designated by the board taken by teacher education students at a standard institution of higher education or (b) successful employment experiences;

(2) Board means the State Board of Education;

~~(2)~~ (3) Certificate means an authorization issued by the commissioner to an individual who meets the qualifications to engage in teaching, providing special services, or administering in prekindergarten through grade twelve in the elementary and secondary schools in this state;

(4) Commissioner means the Commissioner of Education;

~~(3)~~ (5) Department means the State Department of Education;

(6) Human relations training means course work or employment experiences that lead to (a) an awareness and understanding of the values, lifestyles, contributions, and history of a pluralistic society, (b) the ability to recognize and deal with dehumanizing biases, including, but not limited to, sexism, racism, prejudice, and discrimination, and an awareness of the impact such biases have on interpersonal relations, (c) the ability to translate knowledge of human relations into attitudes, skills, and techniques which result in favorable experiences for students, (d) the ability to recognize the ways in which dehumanizing biases may be reflected in instructional materials, (e) respect for human dignity and individual rights, and (f) the ability to relate effectively to other individuals and to groups in a pluralistic society other than the applicant's own;

(7) Special education training means course work or employment experiences that provide an individual with the knowledge of (a) the exceptional needs of the disabilities defined under the Special Education Act, (b) the major characteristics of each disability in order to recognize its existence in children, (c) the various alternatives for providing the least restrictive environment for children with disabilities, (d) methods of teaching children with disabilities in the regular classroom, and (e) prereferral alternatives, referral systems, multidisciplinary team responsibilities, the individualized education plan process, and the placement process;

(8) Special services means supportive services provided to students that do not primarily involve teaching, including, but not limited to, (a) audiology, psychology, and physical or occupational therapy, (b) the coaching of extracurricular activities, and (c) subject areas for which endorsement programs are not offered by a standard institution of higher education; and

(9) Standard institution of higher education means any college or university, the teacher education programs of which are fully approved by the State Board of Education, and board or approved in another state pursuant to standards which are comparable and equivalent to those set by the board.

(4) Training in human relations means training offered by each standard institution of higher education by the integration of human relations training into an existing course or combination of existing courses and evidenced by a voucher verifying that such training has in fact been offered to each graduate of such institution. Such training shall be designed to lead to the following skills:

(a) An awareness and understanding of the values, lifestyles, contributions, and history of a pluralistic society;

(b) The ability to recognize and deal with dehumanizing biases, including, but not limited to, sexism, racism, prejudice, and discrimination, and an awareness of the impact such biases have on interpersonal relations;

(c) The ability to translate knowledge of human relations into attitudes, skills, and techniques which result in favorable experiences for students;

(d) The ability to recognize the ways in which dehumanizing biases may be reflected in instructional materials;

(e) Respect for human dignity and individual rights; and

(f) The ability to relate effectively to other individuals and to groups in a pluralistic society other than the teacher's own.

Sec. 8. Section 79-808, Revised Statutes Supplement, 2002, is amended to read:

79-808. (1) The board shall establish, adopt, and promulgate appropriate rules, regulations, and procedures governing the issuance, renewal, conversion, ~~revival~~, ~~cancellation~~, suspension, and revocation of certificates and permits to teach, provide special services, ~~counsel~~, ~~supervise~~, and administer in all elementary and secondary schools in this state based upon (a) earned college credit in humanities, social and natural sciences, mathematics, and ~~practical arts~~ or career and technical education, (b) earned college credit, or its equivalent in professional education, for particular teaching, ~~counseling~~, ~~supervisory~~ special services, or administrative assignments, (c) scholarship attained in earning such credit, ~~(d) training in human relations~~ criminal history record information if the applicant has not been a continuous Nebraska resident for five years immediately preceding application for the first issuance of a certificate, (d) human relations training, (e) successful teaching, administration, or

provision of special services, and (f) moral, mental, and physical fitness for teaching, all in accordance with sound educational practices.

(2)(a) The board shall establish or designate basic skills competency examinations for prospective teachers. The examinations shall measure competency in the written use of the English language, competency to read, comprehend, and interpret professional writing and other written materials, and competency to work with fundamental mathematical computations.

(b) Except as provided otherwise in this subdivision, a candidate applying for an entry-level teacher or administrator certificate after July 31, 1989, shall not receive a certificate unless such candidate has received a satisfactory score on the basic skills competency examinations established or designated by the board. A candidate shall be exempt from this requirement if (i) the candidate has three or more successive years of experience in an approved or accredited school with a certificate issued by that state on the basis of successful completion of an approved teacher education program in that state or another state or (ii) the candidate has current credentials from a national nonprofit organization (A) approved by the State Department of Education, (B) the purpose of which is to establish high and rigorous standards in a broad range of educational areas for what accomplished teachers should know and be able to do, and (C) which issues credentials to teachers who demonstrate that they meet those standards. The board may issue a temporary certificate to any teacher or administrator who is first employed in a Nebraska school after April 1 of any year and who meets all other requirements but has not taken or received a satisfactory score on the examinations. The temporary certificate shall be valid only for the ensuing school year and may be renewed for one additional year. Each Nebraska teacher education institution approved by the board shall administer the basic skills competency examinations as a condition for entry into such institution's teacher or administrator program.

(c) (2) The board may issue a temporary certificate, valid for a period not to exceed two years, to any applicant for certification who has not completed the human relations training requirement pursuant to subdivision (1)(d) of this section or the special education competencies requirement specified in section 79-816. No applicant for certification shall receive any manner of temporary certification which exceeds two years in duration. The board may also issue such temporary certification, valid for not more than two years, pursuant to the Interstate Agreement on Qualification of Educational Personnel found in section 79-893.

(d) The board may issue substitute teaching certificates or permits in the absence of training in human relations required pursuant to subdivision (1)(d) of this section, the basic skills competency examinations required pursuant to subdivision (2)(b) of this section, or the special education competencies requirement specified in section 79-816.

(3) Members of any advisory committee established by the board to assist the board in teacher education and certification matters shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. Each school district which has an employee who serves as a member of such committee and which is required to hire a person to replace such member during the member's attendance at meetings or activities of the committee or any subcommittee thereof shall be reimbursed from the General Certification Fund for the expense it incurs from hiring a replacement. School districts may excuse employees who serve on such advisory committees from certain duties which conflict with any advisory committee duties.

Sec. 9. Section 79-809, Revised Statutes Supplement, 2002, is amended to read:

79-809. ~~The~~ In addition to the requirements in section 79-808, the maximum which the board may require for the issuance of any entry-level certificate or permit, ~~valid for teaching only in all schools for a term of not less than three years,~~ shall be that the applicant is of sound mental and physical health and of good moral character and a statement countersigned by an authorized official of a standard institution of higher education which certifies the grade levels and subject fields or areas of specialization and shall be that the applicant (1) has a baccalaureate degree that qualifies for a certificate to teach, ~~except that a master's degree shall be required for the issuance of any entry-level teaching certificate with a speech-language pathologist endorsement,~~ (2) has filed a complete set of his or her legible fingerprints for a criminal history record information check if required by section 79-8,111, (3) in the case of any person who matriculates in a teacher training program, (2) has satisfactorily completed, within two years of the date of application, the institution's regular approved or accredited program of preparation for teaching and has met all other appropriate requirements of the institution as a teacher, (4) has achieved a satisfactory score on the

basic skills competency examinations established or designated by the State Board of Education pursuant to section 79-808 prior to (a) admission into a Nebraska teacher training program or (b) certification in the case of individuals recommended for certification by a postsecondary institution outside of Nebraska or individuals not matriculating in a teacher training program, and (5) has performed at a satisfactory level, as determined by the State Board of Education, on a subject area examination established or designated by the State Board of Education in each area for which endorsement is sought an approved program at a standard institution of higher education, (3) has satisfactorily demonstrated basic skills competency, (4) has special education training, (5) has earned college credit in an approved program, at a standard institution of higher education, for which endorsement is sought, and (6) has paid a nonrefundable fee to the department of up to forty-five dollars for issuance of a certificate or permit valid in all schools or up to thirty dollars for issuance of a certificate or permit valid only in nonpublic schools.

Sec. 10. Section 79-810, Revised Statutes Supplement, 2002, is amended to read:

79-810. (1) ~~The certificates~~ Certificates and permits provided for in section 79-808 shall be issued by the commissioner upon application on forms ~~to be prescribed and provided by him or her,~~ which shall include the applicant's social security number. ~~and upon the payment by the applicant of a nonrefundable fee of forty-five dollars, except as provided in subsection (5) of this section, for each application for a certificate or permit. The board may waive the fee for the holder of any certificate issued in another state which is determined to have validity in this state based on provisions in agreements between the states which have been approved by the board.~~

(2) Each ~~such~~ certificate or permit issued by the commissioner shall indicate the grade levels, subjects, subject fields, or area of authorization to teach, provide special services, or administer and any areas of specialization endorsement for which the holder was specifically prepared by a standard institution of higher education or authorized by the board to teach, counsel, supervise, and administer qualifies. During the term of any certificate or permit issued by the commissioner, additional endorsements may be made on the certificate or permit ~~for~~ if the holder submits an application, meets the requirements for issuance of the additional endorsements, and pays a nonrefundable fee of thirty dollars. Such additional endorsements shall indicate only the grade levels, subjects, subject fields, or areas of specialization for which the holder was specifically prepared by a standard institution of higher education or authorized by the board pursuant to section 79-808.

(3) The Teachers' Certification Fund is created. Any fee received by the State Department of Education department under this section sections 79-806 to 79-815 and sections 14 and 15 of this act shall be remitted to the State Treasurer for credit to the Teachers' Certification Fund fund. The fund shall be used by the department in paying the costs of certifying educators pursuant to such sections 79-808 to 79-816 and to carry out subsection (3) of section 79-808, except that fifteen thirteen dollars of the forty-five-dollar fee specified in subsection (1) of this section subdivision (6) of section 79-809 for certificates or permits valid in all schools shall be credited to the Professional Practices Commission Fund which is created for use by the department to pay for the provisions of sections 79-859 to 79-871. Money in the Teachers' Certification Fund shall not be used for any purpose other than the direct certification of educators and shall not be used for accreditation visits. Any money in the Teachers' Certification Fund or the Professional Practices Commission Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The State Treasurer shall transfer any money in the Teachers' Certification Fund on the effective date of this act to the Certification Fund on such date.

(4) The State Treasurer shall transfer three hundred fifty thousand dollars from the Professional Practices Commission Fund to the General Fund on September 1, 2002.

(5) Since nonpublic schools and their teachers do not receive the benefits of sections 79-859 to 79-871, a special certificate or permit restricted to use in nonpublic schools only shall be issued upon payment of a nonrefundable fee of thirty dollars and the applicant providing his or her social security number. Such certificate or permit shall have plainly stamped or otherwise written on its face the words nonpublic school only. Upon surrender of such a certificate or permit and the payment of the fee provided in subsection (1) of this section by the holder of the certificate or permit, a regular certificate or permit shall be issued. Such fee shall be remitted

and credited as directed in subsection (3) of this section.

~~(6) Upon payment by the applicant of a nonrefundable fee of thirty dollars, a duplicate certificate or permit to which the holder is entitled may be issued by the commissioner.~~

Sec. 11. Section 79-811, Reissue Revised Statutes of Nebraska, is amended to read:

79-811. All college credits submitted for the purpose of obtaining a certificate or permit shall be earned in or accepted by a ~~regular teacher education program in a standard institution of higher education of this or another state~~ and shall be certified by the proper authorities of the institution attended, showing the academic and professional preparation of the applicant.

Sec. 12. Section 79-813, Reissue Revised Statutes of Nebraska, is amended to read:

79-813. The board may authorize the issuance of certificates or permits to applicants who hold a valid certificate or permit currently in force in a state other than Nebraska if the requirements for the certificate or permit held by the applicant are comparable and equivalent to those required for a similar type of certificate or permit issued under sections 79-806 to ~~79-816~~ 79-815 and sections 14 and 15 of this act.

Sec. 13. Section 79-814, Revised Statutes Supplement, 2002, is amended to read:

79-814. The board may limit the use of any certificate or permit issued under sections 79-806 to ~~79-816 to those grade levels, subject fields, or areas of instruction for which the holder was specifically prepared to teach, counsel, supervise, or administer by a standard institution of higher education~~ 79-815 and sections 14 and 15 of this act.

Sec. 14. (1) Upon request by the commissioner, the Nebraska State Patrol shall undertake a search for criminal history record information relating to an applicant for a certificate pursuant to subdivision (1)(c) of section 79-808, including transmittal of the applicant's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The criminal history record information check shall include information concerning the applicant from federal repositories of such information and repositories of such information in other states if authorized by federal law. The Nebraska State Patrol shall issue a report to the commissioner that shall include the criminal history record information concerning the applicant.

(2) The commissioner may deny issuance of a certificate or permit to any applicant who has a felony conviction or who has any misdemeanor conviction involving abuse, neglect, or sexual misconduct. In reviewing an applicant's criminal history record information, the commissioner shall take into consideration any information, including information submitted by the applicant, regarding (a) the facts and circumstances surrounding a conviction, (b) the type of offense and the sentence imposed, (c) whether the conduct resulting in a conviction would constitute a crime in Nebraska, (d) the date of the offense, (e) the age of the applicant at the time of the offense, and (f) the applicant's conduct and positive social contributions since the offense.

(3) The board shall determine and set the costs for processing criminal history record information checks pursuant to this section and section 79-808 which shall be borne by the applicant for a certificate or permit. The costs shall be limited to the actual direct costs arising from the processing of the criminal history record information checks.

(4) Criminal history record information subject to federal confidentiality requirements shall remain confidential and may be released only upon the written authorization by the applicant, except that if the applicant appeals the denial of a certificate or permit by the commissioner, the filing of an administrative appeal shall constitute a release of the information for the limited purpose of the appeal. If the applicant requests a closed hearing, such request shall be subject to sections 84-1408 to 84-1414.

Sec. 15. An applicant subject to a criminal history record information check shall be issued a conditional permit prior to receipt by the commissioner of criminal history record information of the applicant, which conditional permit shall be valid for up to one year, if the applicant signs a statement that identifies all crimes of which the applicant has been convicted and the commissioner determines the applicant to be of good moral character and meets all other certification requirements. An applicant's conditional permit is void upon a final determination that the applicant does not meet the requirements for issuance of a certificate. The applicant may request a hearing regarding the denial of a certificate or permit as provided by the

rules and regulations adopted pursuant to section 79-808.

For purposes of this section, a determination is final upon issuance of a final decision on appeal or upon expiration of the time in which the applicant may request a hearing without such hearing being requested.

Sec. 16. Section 79-815, Reissue Revised Statutes of Nebraska, is amended to read:

79-815. Any regular Nebraska certificate, including any permanent or life certificate in force on January 1, 1964, shall remain in force for its regular term. Upon application by the holder of any such certificate, the board may authorize the conversion of such certificate to a similar certificate or permit issued by the commissioner under sections 79-806 to ~~79-816~~ 79-815 and sections 14 and 15 of this act.

Sec. 17. Section 79-827, Reissue Revised Statutes of Nebraska, is amended to read:

79-827. (1) The contract of any certificated employee, including a superintendent, associate superintendent, or assistant superintendent, may be canceled or amended by a majority of the members of the school board during the school year for any of the following reasons: (a) Upon ~~cancellation, termination, revocation, or suspension of a teacher's certificate, or suspension of a certificate~~ by the State Board of Education, ~~or of the Nebraska Administrative and Supervisory Certificate or the Nebraska Professional Administrative and Supervisory Certificate~~ of any certificated employee whose duties require such a certificate; (b) breach of any of the material provisions of the teacher's or administrator's contract; (c) for any of the reasons set forth in the employment contract; (d) incompetency; (e) neglect of duty; (f) unprofessional conduct; (g) insubordination; (h) immorality; or (i) physical or mental incapacity.

(2) If the school board or the superintendent or superintendent's designee of any school district determines that it is appropriate to consider cancellation of a certificated employee's contract during the school year for the reasons set forth in subsection (1) of this section, the certificated employee shall be notified in writing of the alleged grounds for cancellation of the contract and that such certificated employee's contract may be canceled. Within seven calendar days after receipt of such notice, the certificated employee may make a written request to the secretary of the school board or to the superintendent or superintendent's designee for a hearing.

(3) Prior to scheduling of action or the hearing, if requested, the notice of possible cancellation and the reasons supporting possible cancellation shall be considered a confidential employment matter subject to the provisions of sections 79-539, 79-8,109, and 84-1410 and shall not be released to the public or any news media.

(4) This section does not prevent the suspension from duty with pay of a certificated employee pending a decision on the cancellation of the contract.

Sec. 18. Section 79-829, Reissue Revised Statutes of Nebraska, is amended to read:

79-829. The contract of a permanent certificated employee shall be deemed continuing and shall be renewed and remain in full force and effect unless amended or terminated in accordance with the provisions of sections 79-824 to 79-842. The school board by a vote of the majority of its members may determine that such permanent certificated employee's contract shall be amended or terminated for any of the following reasons: (1) Just cause as defined in section 79-824; (2) reduction in force as set forth in sections 79-846 to 79-849, or change of leave-of-absence policies; (3) failure of the certificated employee upon written request of the school board or the administrators of the school district to accept employment for the next school year within the time designated in the request, except that the certificated employee shall not be required to signify such acceptance prior to March 15 of each year; or (4) ~~revocation, cancellation, suspension, or termination of the certificated employee's certificate, by the State Board of Education, or of a Nebraska Administrative and Supervisory Certificate or Nebraska Professional Administrative and Supervisory Certificate or suspension by the State Board of Education of the certificate of a certificated employee whose duties require such a certificate.~~

Sec. 19. Section 79-871, Reissue Revised Statutes of Nebraska, is amended to read:

79-871. All costs and expenses incurred by the commission in administering the provisions of sections 79-859 to 79-871 shall be paid ~~from the Professional Practices Commission Fund as provided in section 79-810.~~ The commission shall develop its own budget which shall be included as a program in the general budget of the State Department of Education.

Sec. 20. Section 79-8,133, Revised Statutes Supplement, 2002, is amended to read:

79-8,133. For purposes of the Attracting Excellence to Teaching Program Act:

- (1) Department means the State Department of Education;
- (2) Eligible institution means a not-for-profit college or university which (a) is located in Nebraska, (b) is accredited by the North Central Association of Colleges and Schools, (c) has a teacher education program accredited by the department, and (d) if a privately funded college or university, has not opted out of the act pursuant to rules and regulations;
- (3) Eligible student means an individual who (a) is a full-time student, (b) is enrolled in an eligible institution in a teacher education program, and (c) if enrolled at a state-funded eligible institution, is a resident student as described in section 85-502 or, if enrolled in a privately funded eligible institution, would be deemed a resident student if enrolled in a state-funded eligible institution;
- (4) Full-time student means, in the aggregate, the equivalent of a student who in a twelve-month period is enrolled in thirty semester credit hours or forty-five quarter credit hours of classroom, laboratory, clinical, practicum, or independent study course work; and
- (5) Teacher education program means a program of study which results in obtaining a bachelor's degree which meets the education requirements for certification pursuant to sections 79-806 to ~~79-816~~ 79-815 and sections 14 and 15 of this act.

Sec. 21. Section 79-8,135, Revised Statutes Supplement, 2002, is amended to read:

79-8,135. (1) The State Department of Education shall administer the Attracting Excellence to Teaching Program either directly or by contracting with a public or private entity.

(2) To be eligible for the program, an eligible student shall:

- (a) Graduate in the top quarter of his or her high school class or have a minimum cumulative grade-point average of 3.0 on a four-point scale in an eligible institution;
- (b) Agree to complete a teacher education program at an eligible institution; and
- (c) Commit to teach in an accredited or approved public or private school in Nebraska upon successful completion of a teacher education program at an eligible institution and becoming certified pursuant to sections 79-806 to ~~79-816~~ 79-815 and sections 14 and 15 of this act.

(3) Eligible students may apply on an annual basis for loans in an amount of not more than two thousand five hundred dollars per year. Priorities for loans shall be to eligible students who are majoring in subject shortage areas as defined by the department. Loans awarded to individual students shall not exceed a cumulative period exceeding five consecutive years. Loans shall only be awarded through an eligible institution and funded pursuant to section 79-8,136.

Sec. 22. Section 79-8,137, Revised Statutes Supplement, 2002, is amended to read:

79-8,137. (1) Prior to receiving any money from a loan pursuant to the Attracting Excellence to Teaching Program, an eligible student shall enter into a contract with the department. The contract shall require that if (a) the borrower is not employed as a teacher in Nebraska for a time period equal to the number of years required for loan forgiveness pursuant to subsection (2) of this section and is not enrolled as a full-time student in a graduate program within six months after obtaining an undergraduate degree for which a loan from the program was obtained or (b) the borrower does not complete the requirements for graduation within five consecutive years after receiving the initial loan under the program, then the loan must be repaid, with interest at the rate fixed pursuant to section 45-103 accruing as of the date the borrower signed the contract, and an appropriate penalty as determined by the department may be assessed. If a borrower fails to remain enrolled at an eligible institution or otherwise fails to meet the requirements of an eligible student, repayment of the loan shall commence within six months after such change in eligibility. The State Board of Education may by rules and regulations provide for exceptions to the conditions of repayment pursuant to this subsection based upon mitigating circumstances.

(2) If the borrower (a) successfully completes the teacher education program and becomes certified pursuant to sections 79-806 to ~~79-816~~ 79-815 and sections 14 and 15 of this act, (b) becomes employed as a teacher in this state within six months of becoming certified, and (c) otherwise meets the requirements of the contract, payments shall be suspended for the number of years that the borrower is required to remain employed as a teacher in this

state under the contract. For each year that the borrower teaches in Nebraska pursuant to the contract, payments shall be forgiven in an amount equal to the amount borrowed for one year, except if the borrower teaches in a school district that is at least partially in a local system classified in the very sparse cost grouping as provided in section 79-1007.02 or teaches in a school district in which at least forty percent of the students qualify for the poverty factor as provided in section 79-1007.01, payments shall be forgiven each year in an amount equal to the amount borrowed for two years.

Sec. 23. Section 79-1104, Revised Statutes Supplement, 2002, is amended to read:

79-1104. (1) Any school board in its discretion may (a) establish and financially support programs providing before-and-after-school or prekindergarten services, to which attendance shall be voluntary and which the board may deem beneficial to the education of prekindergarten or school-age children and (b) provide or financially support transportation for children to, from, or to and from programs as defined in section 71-1910. The board may charge a fee, not to exceed the actual cost, for providing such programs and services but may waive such fee on the basis of need. This section does not allow any school district to fail to meet its responsibilities under the Special Education Act.

(2) Prekindergarten programs established by school boards or educational service units shall be approved by the State Department of Education subject to regulations adopted and promulgated by the State Board of Education and may include such components as (a) the utilization of appropriately qualified staff, (b) an appropriate child-to-staff ratio, (c) appropriate group size, (d) compliance with minimum health and safety standards, (e) appropriate facility size and equipment, (f) a strong family development and support component, (g) developmentally and culturally appropriate curriculum, practices, and assessment, (h) well-defined language development and early literacy emphasis, and (i) a plan for ongoing professional development of staff, all in accordance with sound early childhood educational practice. All teachers and administrators in prekindergarten programs established pursuant to this section shall hold a valid certificate or permit issued pursuant to sections 79-806 to ~~79-816~~ 79-815 and sections 14 and 15 of this act. The State Board of Education shall adopt and promulgate rules and regulations for the issuance of such permits or certificates required by this section.

Sec. 24. Section 79-1239, Reissue Revised Statutes of Nebraska, is amended to read:

79-1239. (1) The board by a vote of the majority of its members may determine that a permanent certificated employee's contract shall be amended or terminated for any of the following reasons: (a) Just cause as defined in section 79-1234; (b) reduction in force as set forth in sections 79-846 to 79-849; (c) a change of leave-of-absence policy; (d) failure of the permanent certificated employee upon written request of the board or the administrators of the educational service unit to accept employment for the next school year within the time designated in the request, except that the permanent certificated employee shall not be required to signify such acceptance prior to March 15 of each year; or (e) revocation, ~~cancellation, suspension, or termination~~ or suspension of the permanent certificated employee's certificate by the State Board of Education.

(2) If a hearing is requested by the permanent certificated employee, the formal due process hearing for the purpose of this section means a hearing procedure adopted by the board which contains at least the following: (a) Notification to the permanent certificated employee in writing at least five days prior to the hearing of the grounds alleged for the termination or amendment of the permanent certificated employee's contract; (b) upon request of the permanent certificated employee, a list of the names of any witnesses who will be called to testify against the certificated employee and an opportunity to examine any documents that will be presented at the hearing shall be provided at least five days prior to the hearing; (c) the right to be represented; and (d) an opportunity to cross-examine all witnesses, examine all documents, and present evidence material to the issues.

(3) Notice of the hearing shall be given in accordance with sections 84-1408 to 84-1414. Upon an affirmative vote of a majority of the board's members present and voting and upon specific request of the permanent certificated employee or the permanent certificated employee's representative, the hearing shall be conducted in a closed session, but the formal action of the board shall be taken in open session.

(4) A majority of the members of the board shall render its decision to amend or terminate a permanent certificated employee's contract based solely upon the evidence produced at the hearing, shall reduce its findings

and determination to writing, and shall deliver a written copy of the findings and determination to the permanent certificated employee.

Sec. 25. Section 79-1601, Revised Statutes Supplement, 2002, is amended to read:

79-1601. (1) Except as provided in subsections (2) through (6) of this section, all private, denominational, and parochial schools in the State of Nebraska and all teachers employed or giving instruction in such schools shall be subject to and governed by the provisions of the general school laws of the state so far as the same apply to grades, qualifications, and certification of teachers and promotion of pupils. All private, denominational, and parochial schools shall have adequate equipment and supplies, shall be graded the same, and shall have courses of study for each grade conducted in such schools substantially the same as those given in the public schools where the children attending would attend in the absence of such private, denominational, or parochial schools.

(2) All private, denominational, or parochial schools shall either comply with the accreditation or approval requirements prescribed in section 79-318 or, for those schools which elect not to meet accreditation or approval requirements, the requirements prescribed in section 79-318 and subsections (2) through (6) of this section. Standards and procedures for approval and accreditation shall be based upon the program of studies, guidance services, the number and preparation of teachers in relation to the curriculum and enrollment, instructional materials and equipment, science facilities and equipment, library facilities and materials, and health and safety factors in buildings and grounds. Rules and regulations which govern standards and procedures for private, denominational, and parochial schools which elect, pursuant to the procedures prescribed in subsections (2) through (6) of this section, not to meet state accreditation or approval requirements shall be based upon evidence that such schools offer a program of instruction leading to the acquisition of basic skills in the language arts, mathematics, science, social studies, and health. Such rules and regulations may include a provision for the visitation of such schools and regular achievement testing of students attending such schools in order to insure that such schools are offering instruction in the basic skills listed in this subsection. Any arrangements for visitation or testing shall be made through a parent representative of each such school. The results of such testing may be used as evidence that such schools are offering instruction in such basic skills but shall not be used to measure, compare, or evaluate the competency of students at such schools.

(3) The provisions of subsections (3) through (6) of this section shall apply to any private, denominational, or parochial school in the State of Nebraska which elects not to meet state accreditation or approval requirements. Elections pursuant to such subsections shall be effective when a statement is received by the Commissioner of Education signed by the parents or legal guardians of all children attending such private, denominational, or parochial school, stating that (a) either specifically (i) the requirements for approval and accreditation required by law and the rules and regulations adopted and promulgated by the State Board of Education violate sincerely held religious beliefs of the parents or legal guardians or (ii) the requirements for approval and accreditation required by law and the rules and regulations adopted and promulgated by the State Board of Education interfere with the decisions of the parents or legal guardians in directing their child's education, (b) an authorized representative of such parents or legal guardians will at least annually submit to the Commissioner of Education the information necessary to prove that the requirements of subdivisions (4)(a) through (c) of this section are satisfied, (c) the school offers the courses of instruction required by subsections (2), (3), and (4) of this section, and (d) the parents or legal guardians have satisfied themselves that individuals monitoring instruction at such school are qualified to monitor instruction in the basic skills as required by subsections (2), (3), and (4) of this section and that such individuals have demonstrated an alternative competency to monitor instruction or supervise children pursuant to subsections (3) through (6) of this section.

(4) Each such private, denominational, or parochial school shall (a) meet minimum requirements relating to health, fire, and safety standards prescribed by state law and the rules and regulations of the State Fire Marshal, (b) report attendance pursuant to section 79-201, (c) maintain a sequential program of instruction designed to lead to basic skills in the language arts, mathematics, science, social studies, and health, and (d) comply with the immunization requirements in section 79-217 if the statement signed by the parents or legal guardians indicate a nonreligious reason pursuant to subdivision (3)(a)(ii) of this section for the student attending a

private, denominational, or parochial school which elects not to meet state accreditation or approval requirements. The State Board of Education shall establish procedures for receiving information and reports required by subsections (3) through (6) of this section from authorized parent representatives who may act as agents for parents or legal guardians of students attending such school and for individuals monitoring instruction in the basic skills required by subsections (2), (3), and (4) of this section.

(5) Individuals employed by schools which elect not to meet state accreditation or approval requirements shall not be required to meet the certification requirements prescribed in sections 79-801 to ~~79-816~~ 79-815 and sections 14 and 15 of this act but shall either (a) take appropriate subject matter components of a nationally recognized teacher competency examination designated by the State Board of Education as (i) including the appropriate subject matter areas for purposes of satisfying the requirements of subsections (3) and (4) of this section and (ii) a nationally recognized examination or (b) offer evidence of competence to provide instruction in the basic skills required by subsections (3) and (4) of this section pursuant to informal methods of evaluation which shall be developed by the State Board of Education. Such evidence may include educational transcripts, diplomas, and other information regarding the formal educational background of such individuals. Information concerning test results, transcripts, diplomas, and other evidence of formal education may be transmitted to the State Department of Education by authorized representatives of parents or legal guardians. The results of such testing or alternative evaluation of individuals who monitor the instruction of students attending such schools may be used as evidence of whether or not such schools are offering adequate instruction in the basic skills prescribed in subsections (2), (3), and (4) of this section but shall not be used to prohibit any such school from employing such individuals. Failure of a monitor, who is tested for the purpose of satisfying in whole or in part the requirements of subsections (3) through (6) of this section, to attain a score equal to or exceeding both the state or national average score or rating on appropriate subject matter components of recognized teacher competency examinations designated by the State Board of Education may be by itself sufficient proof that such school does not offer adequate instruction in the basic skills prescribed in subsections (3) and (4) of this section.

(6) The demonstration of competency to monitor instruction in a private, denominational, or parochial school which has elected not to meet state accreditation or approval requirements shall in no way constitute or be construed to grant a license, permit, or certificate to teach in the State of Nebraska. Any school which elects not to meet state accreditation or approval requirements and does not meet the requirements of subsections (2) through (6) of this section shall not be deemed a school for purposes of section 79-201, and the parents or legal guardians of any children attending such school shall be subject to prosecution pursuant to such section or any statutes relating to habitual truancy.

Sec. 26. Section 79-1605, Revised Statutes Supplement, 2002, is amended to read:

79-1605. The superintendent of the high school district and its affiliated territory in which any private, denominational, or parochial school is located, which school is not otherwise inspected by an area or diocesan representative holding a Nebraska ~~Administrative and Supervisory Certificate~~ certificate to administer, shall inspect such schools and report to the proper officers any evidence of failure to observe any of the provisions of sections 79-1601 to 79-1607. The Commissioner of Education, when in his or her judgment it is deemed advisable, may appoint a public school official other than such superintendent, including a member of the State Department of Education, for such inspections. Such appointee shall hold a Nebraska ~~Administrative and Supervisory Certificate~~ certificate to administer. The State Board of Education shall require the superintendents and appointed public school officials to make such inspections at least twice a year, and the school officers of such schools and the teachers giving instruction in such schools shall permit such inspection and assist and cooperate in the making of the same.

Sec. 27. Section 85-1105, Reissue Revised Statutes of Nebraska, is amended to read:

85-1105. In order to establish a new two-year, four-year, graduate, or professional private college, any individual or organization sponsoring such a college shall first petition the Coordinating Commission for Postsecondary Education for approval thereof.

For purposes of this section, any private college or private postsecondary career school which will extend its program offerings to the baccalaureate or higher degree level shall first petition the commission for

approval. Any private college which, on September 1, 1999, has offered one or more four-year undergraduate programs for at least one academic year in compliance with state and federal law shall not be required to petition the commission under this section for approval to offer graduate or professional programs.

Sec. 28. Section 85-1108, Reissue Revised Statutes of Nebraska, is amended to read:

85-1108. (1) In considering the feasibility of the college proposed in a petition under section 85-1105, the Coordinating Commission for Postsecondary Education shall take into account the following factors:

- (a) The need for and the objectives of the proposed college;
- (b) The proposed instructional program and the plan for staffing such a program, including staff qualifications;
- (c) The financial soundness and capability to fulfill its proposed commitments;
- (d) Affirmation of intent to seek appropriate accreditation of the institution by an entity recognized by the United States Department of Education. When any new private college or private postsecondary career school petitions the commission to offer degrees at the baccalaureate or higher degree level, it shall seek accreditation by an accrediting agency which has been approved by the United States Department of Education with the scope to accredit institutions offering programs at such degree levels; and

(e) Such other pertinent factors as relate to the potential of the proposed college to achieve its objectives or as may be developed at the hearing.

(2) The commission may charge a reasonable fee based on its administrative costs for review and authorization of petitions and applications made pursuant to sections 85-1105 to 85-1111 and may also adopt and promulgate such rules and regulations as may be necessary to carry out the provisions of sections 85-1105 to 85-1111.

Sec. 29. Section 85-1412, Reissue Revised Statutes of Nebraska, is amended to read:

85-1412. The commission shall have the following additional powers and duties:

(1) Conduct surveys and studies as may be necessary to undertake the coordination function of the commission pursuant to section 85-1403 and request information from governing boards and appropriate administrators of public institutions and other governmental agencies for research projects. All public institutions and governmental agencies receiving state funds shall comply with reasonable requests for information under this subdivision. Public institutions may comply with such requests pursuant to section 85-1417;

(2) Recommend to the Legislature and the Governor legislation it deems necessary or appropriate to improve postsecondary education in Nebraska and any other legislation it deems appropriate to change the role and mission provisions in sections 85-121.05 and 85-917 to 85-966.01;

(3) Establish any advisory committees as may be necessary to undertake the coordination function of the commission pursuant to section 85-1403 or to solicit input from affected parties such as students, faculty, governing boards, administrators of the public institutions, administrators of the private nonprofit institutions of postsecondary education and proprietary institutions in the state, and community and business leaders regarding the coordination function of the commission;

(4) Participate in or designate an employee or employees to participate in any committee which may be created to prepare a coordinated plan for the delivery of educational programs and services in Nebraska through the telecommunications system;

(5) Seek a close liaison with the State Board of Education and the State Department of Education in recognition of the need for close coordination of activities between elementary and secondary education and postsecondary education;

(6) Administer the Integrated Postsecondary Education Data System or other information system or systems to provide the commission with timely, comprehensive, and meaningful information pertinent to the exercise of its duties. The information system shall be designed to provide comparable data on each public institution. The commission shall also administer the uniform information system prescribed in sections 85-1421 to 85-1427 known as the Nebraska Educational Data System. Public institutions shall supply the appropriate data for the information system or systems required by the commission;

(7) Administer the State Scholarship Award Program Act, the Scholarship Assistance Program Act, and the Postsecondary Education Award Program Act;

(8) Accept and administer loans, grants, and programs from the federal or state government and from other sources, public and private, for carrying out any of its functions, including the administration of privately endowed scholarship programs. Such loans and grants shall not be expended for any other purposes than those for which the loans and grants were provided. The commission shall determine eligibility for such loans, grants, and programs, and such loans and grants shall not be expended unless approved by the Governor;

(9) ~~Make recommendations to the State Board of Education with regard to granting permits for the operation of correspondence schools, privately owned business or trade schools, or other educational institutions under the Private Postsecondary Career School Act whenever any correspondence school, business school, or vocational school offers any course which is intended to lead to the granting of an associate degree, diploma, or certificate or any course which qualifies for college credit~~ Consistent with section 85-1620, approve, in a timely manner, new baccalaureate degree programs to be offered at private postsecondary career schools as defined in section 85-1603. The commission may charge a reasonable fee based on its administrative costs for authorizations pursuant to this subdivision and section 85-1620. The commission shall report such action to the Commissioner of Education;

(10) Pursuant to sections 85-1101 to 85-1104, authorize out-of-state institutions of higher or postsecondary education to offer courses or degree programs in this state;

(11) Pursuant to sections 85-1105 to 85-1111, approve or disapprove petitions to establish new private colleges in this state;

(12) ~~(a) On or before October 1, 1994, and on or before October 1 every two years thereafter through October 1, 1999, submit to the Legislature and the Governor a report of its objectives and activities and the implementation of any recommendations of the commission for the preceding two calendar years; and~~

~~(b) On or before December 1, 2000, and on or before December 1 every two years thereafter, submit to the Legislature and the Governor a report of its objectives and activities and any new private colleges in Nebraska and the implementation of any recommendations of the commission for the preceding two calendar years;~~

(13) Provide staff support for interstate compacts on postsecondary education; and

(14) Request inclusion of the commission in any existing grant review process and information system.

Sec. 30. Section 85-1603, Reissue Revised Statutes of Nebraska, is amended to read:

85-1603. For purposes of the Private Postsecondary Career School Act:

(1) Agent means any person who owns any interest in, is employed by, or regularly represents for remuneration a private postsecondary career school located within or outside this state who (a) by solicitation made in this state enrolls or seeks to enroll a resident of this state for education offered by such school, (b) offers to award educational credentials for remuneration on behalf of any such school, or (c) holds himself or herself out to residents of this state as representing such a school;

(2) Agent's permit means a nontransferable, written authorization issued to a natural person by the department which allows that person to solicit or enroll any resident of this state for education in a private postsecondary career school;

(3) Authorization to operate means approval by the department to operate a private postsecondary career school in this state;

(4) Board means the State Board of Education;

(5) Branch facility means a facility (a) which is separate from a principal facility, (b) which offers a full program and full student services, (c) which is under the supervision of an onsite director or administrator, and (d) (i) the ownership, management, and control of which are the same as the principal facility, which principal facility is responsible for the delivery of all services, or (ii) at which education is offered by a franchisee of a franchisor authorized to operate as a private postsecondary career school pursuant to the act if the franchisor establishes the course curriculum and guidelines for teaching at the franchisee's facility;

(6) Commission means the Coordinating Commission for Postsecondary Education;

(7) Commissioner means the Commissioner of Education;

~~(7)~~ (8) Course of study or instruction means a program of study, training, or instruction consisting of a series of lessons or classes which are coordinated as a curriculum or program of instruction to prepare or

qualify individuals or improve or upgrade the skills needed for employment, career opportunities, or any specific occupation;

~~(8)~~ (9) Department means the State Department of Education;

~~(9)~~ (10) Education or educational services means any class, course, or program of occupational training, instruction, or study;

~~(10)~~ (11) Entity means any individual, company, firm, society, group, association, partnership, limited liability company, corporation, trust, or other person;

~~(11)~~ (12) Grant, with respect to educational credentials, means award, sell, confer, bestow, or give;

~~(12)~~ (13) Home study school means a school which provides correspondence lesson materials prepared in a sequential and logical order for study and completion by a student on his or her own, with completed lessons returned by the student to the school for evaluation and subsequent return to the student, including those schools which offer instruction by home study in combination with in-residence training;

~~(13)~~ (14) Offer includes, in addition to its usual meaning, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform a described act;

~~(14)~~ (15) Out-of-state school means any school which has its place of instruction or its principal location outside the boundaries of this state and which offers or conducts courses of instruction or subjects on the premises of the school, or provides correspondence or home study lesson materials, or offers or provides Nebraska students with courses of instruction or subjects through activities engaged in or conducted outside the boundaries of Nebraska;

~~(15)~~ (16) Principal facility or main school means a private postsecondary career school located in the State of Nebraska;

~~(16)~~ (17) Private postsecondary career school means any organization or business enterprise which is not specifically exempt under section 85-1604, which offers courses or subjects for which tuition is charged, and at the place of business of which a course of instruction is available through classroom instruction, home study, or both to a person for the purpose of training, preparing, or improving the person for an occupation even though the organization's or business enterprise's principal efforts may not be exclusively educational in nature;

~~(17)~~ (18) Resident school means any school offering courses of instruction to its students on the school's premises; ~~and~~

~~(18)~~ (19) Separate classroom means a supplemental training space (a) which is located near the main school for the purpose of expanding the educational offerings or for training an overflow of students who cannot be accommodated at the main school, (b) which is close enough to the main school to assure immediate supervision and administration of all essential student services by the main school and ready access by students to the student services available, and (c) in which the only required onsite service is teaching; ~~and~~

(20) Short-term training means classes, courses, or programs of instruction or study that are offered for the purpose of training, preparing, or improving a person for an occupation when (a) the total hours of instruction required for completion is sixteen clock hours or less and (b) no final course grade is given to persons enrolled.

Sec. 31. Section 85-1604, Reissue Revised Statutes of Nebraska, is amended to read:

85-1604. The following education and schools are exempted from ~~the provisions of~~ the Private Postsecondary Career School Act:

(1) Schools 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 which is offered solely for that organization's membership or offered without charge;

(3) Education provided by or funded by an employer and offered solely to its employees for the purpose of improving such persons in such employment;

(4) Education solely avocational or recreational in nature as determined by the department;

~~(4)~~ (5) Educational programs offered by a charitable institution, organization, or agency as long as such education or training is not advertised or promoted as leading toward occupational objectives;

~~(5)~~ (6) Public postsecondary schools established, operated, and governed by this state or its political subdivisions;

~~(6)~~ Schools (7) Except as provided in subdivision (9) of this section, schools or organizations offering education or instruction which are

licensed and regulated by agencies of this state other than the department as of September 2, 1977, except that such schools or organizations shall not be exempt from the provisions of the act with respect to agents' permits and the Tuition Recovery Cash Fund;

~~(7)~~ (8) Schools or organizations which offer education or instruction and which are licensed and regulated solely by an agency of the federal government with respect to curriculum and qualifications of instructional staff; and

~~(8)~~ Private (9) Not-for-profit private colleges, and universities, and entities (a) which awarded baccalaureate or higher degrees prior to the effective date of this act, which maintain and operate educational programs for which credit is given, and which are in compliance with sections 85-1105 to 85-1111 or (b) which award baccalaureate or higher degrees, and which maintain and operate educational programs for which credit is given, which are in compliance with sections 85-1105 to 85-1111, and which are regionally accredited;

(10) For-profit colleges, universities, and entities which award baccalaureate or higher degrees, which are in compliance with sections 85-1105 to 85-1111, and which are regionally accredited;

(11) Institutions which have previously been regulated as private postsecondary career schools pursuant to the Private Postsecondary Career School Act, which have become regionally accredited, and which have been approved by the commission to offer baccalaureate degrees or higher pursuant to sections 85-1105 to 85-1111. Institutions which have previously been regulated as private postsecondary career schools and which have been approved by the commission to offer baccalaureate degrees pursuant to sections 85-1105 to 85-1111 but which have not become regionally accredited shall remain under the jurisdiction of the State Department of Education and subject to the Private Postsecondary Career School Act; and

(12) Entities exclusively offering short-term training.

Sec. 32. Section 85-1620, Reissue Revised Statutes of Nebraska, is amended to read:

85-1620. (1) A school which has been accredited pursuant to section 85-1619 may apply to the department for authority to award associate degrees. Upon determining that the quality of the courses of instruction at the applicant school meets the standards established in the department's rules and regulations, the commissioner may grant the applicant the authority to award an associate degree and shall issue a certificate setting forth the ~~courses~~ programs for which the associate degree may be awarded. Such authorization shall continue so long as the school remains accredited.

(2) A school which has been accredited pursuant to section 85-1619 may apply to the department for authority to award baccalaureate degrees. The department shall refer such degree applications to the commission for its review and approval. Within ninety days after receipt of such referral, the commission shall make a determination setting forth the specific program area and the name of the baccalaureate degree program. The commission shall report its determination to the commissioner who shall issue a certificate setting forth the programs for which the baccalaureate degree may be awarded. Such authorization shall continue so long as the school remains accredited.

Sec. 33. Section 85-1622, Reissue Revised Statutes of Nebraska, is amended to read:

85-1622. An applicant for an agent's permit shall be an individual of good reputation and character and shall represent only private postsecondary career schools which meet the minimum standards established pursuant to sections 85-1606 and 85-1608. Each person desiring to perform the services of an agent in this state shall make application to the department upon forms to be provided by the department. The application shall state the school which the applicant intends to represent and shall include the applicant's social security number. An agent shall obtain a separate agent's permit for each school represented. A single agent's permit and surety bond for one school with one or more branch facilities shall extend to cover all branch facilities. The application for an agent's permit shall also be accompanied by evidence of a surety bond as provided in section 85-1640 and payment of the application fee provided in section 85-1643.

If any school which the applicant intends to represent is not domiciled in this state, the application shall be accompanied by the information required of schools making application for 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. If the state of domicile of the school has no authorization law for private postsecondary career schools or no such law applies to a particular school or course of study or instruction concerning

which the applicant intends to act as an agent, the school shall (1) submit all information required of schools applying for authorization to operate in this state and show evidence that it has been accredited ~~either~~ by an accrediting agency recognized by the United States Department of Education as specified in section 85-1609 ~~or by the State Department of Education following an onsite evaluation of the school with all costs of the evaluation borne by the school~~ and (2) file with the department a school bond in at least the amount required by section 85-1639.

Sec. 34. Section 85-1640, Reissue Revised Statutes of Nebraska, is amended to read:

85-1640. 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 postsecondary career school, but it shall cover each agent for the school in a penal sum of five thousand dollars. Bonds in blanket form shall be executed by the school as principal. The bond shall be conditioned to provide indemnification to any student or enrollee or his or her parent or guardian determined to have suffered loss or damage as a result of any act or practice which is a violation of the Private Postsecondary Career School 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 of the judgment. 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. 35. Section 85-1643, Reissue Revised Statutes of Nebraska, is amended to read:

85-1643. (1) The Private Postsecondary Career Schools Cash Fund is created. All fees collected pursuant to the Private Postsecondary Career School Act shall be remitted to the State Treasurer for credit to the fund. The fund shall be used only for the purpose of administering the act. No fees shall be subject to refund.

(2) Fees Except as provided in subsection (4) of this section, fees collected pursuant to the act shall be the following:

(a) Initial application for authorization to operate, two hundred dollars plus twenty dollars per program of study offered;

(b) Renewal application for authorization to operate, one hundred dollars plus twenty dollars per program of study offered;

(c) Approval to operate a branch facility, one hundred dollars;

(d) Late submission of application, fifty dollars;

(e) Initial agent's permit, fifty dollars;

(f) Agent's permit renewal, twenty dollars;

(g) Accreditation or reaccreditation, one hundred dollars;

(h) Initial authorization to award an associate degree, one hundred dollars;

(i) Initial authorization to offer a baccalaureate degree, two hundred dollars;

(j) Significant program change, fifty dollars;

~~(j)~~ (k) Change of name or location, twenty-five dollars; and

~~(k)~~ (l) Additional new program, one hundred dollars.

(3) Fees for out-of-state schools may include, but shall not exceed the following:

(a) Certificate of approval to recruit, five hundred dollars annually;

(b) Initial agent's permit, one hundred dollars; and

(c) Agent's permit renewal, forty dollars.

(4) (a) Beginning July 1, 2001, the board may establish fees in excess of those stated in subsection (2) of this section. The board shall consult with the advisory council established pursuant to section 85-1607 regarding any increase in fees under the act. Fees may be increased. The board may increase fees by not more than five twenty percent once each three years and shall be set out for each year of fiscal years 2003-04, 2004-05, and 2005-06. Beginning with fiscal year 2006-07 and each year thereafter, the board in consultation with the advisory council shall establish fees sufficient to cover the total cost of administration, except that such fees shall not exceed one hundred ten percent of the previous year's total cost. Such fees shall be set out in the rules and regulations adopted and promulgated by the board.

(b) Total cost shall be determined by an annual audit of:

(i) Salaries and benefits or portions thereof for those department employees who administer the act;

(ii) Operating costs such as rent, utilities, and supplies;

(iii) Capital costs such as office equipment, computer hardware, and computer software;

(iv) Costs for travel by employees of the department, including car rental, gas, and mileage charges; and

(v) Other reasonable and necessary costs as determined by the board.

Sec. 36. Original sections 79-717, 79-801, 79-805, 79-806, 79-807, 79-811, 79-813, 79-815, 79-827, 79-829, 79-871, 79-1239, 85-1105, 85-1108, 85-1412, 85-1603, 85-1604, 85-1620, 85-1622, 85-1640, and 85-1643, Reissue Revised Statutes of Nebraska, and sections 23-3302, 29-2264, 79-808, 79-809, 79-810, 79-814, 79-8,133, 79-8,135, 79-8,137, 79-1104, 79-1601, and 79-1605, Revised Statutes Supplement, 2002, are repealed.

Sec. 37. The following sections are outright repealed: Sections 79-893 to 79-895 and 79-8,111 to 79-8,117, Reissue Revised Statutes of Nebraska, and sections 79-812 and 79-816, Revised Statutes Supplement, 2002.

Sec. 38. Since an emergency exists, this act takes effect when passed and approved according to law.