

## LEGISLATIVE BILL 488

Approved by the Governor April 4, 1990

Introduced by Education Committee, Withem, 14,  
Chairperson; Baack, 47; Nelson, 35;  
McFarland, 28; Bernard-Stevens, 42;  
Crosby, 29; Dierks, 40; Chizek, 31

AN ACT relating to the Private Vocational Educational Authorization Act of 1977; to amend sections 79-2801 to 79-2808, 79-2810 to 79-2837, 79-2842 to 79-2846, 79-2848 to 79-2853, and 79-2855 to 79-2858, Reissue Revised Statutes of Nebraska, 1943; to rename the act; to define and redefine terms; to regulate operation of private postsecondary career schools; to provide and change exemptions; to change, provide, and transfer powers and duties; to change hearing provisions, fees, and a penalty; to harmonize provisions; to eliminate a bond provision and a penalty; and to repeal the original sections, and also sections 79-2809, 79-2847, and 79-2854, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 79-2801, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2801. Sections 79-2801 to 79-2858 shall be known and may be cited as the Private Vocational Educational Authorization Act of 1977 Postsecondary Career School Act.

Sec. 2. That section 79-2802, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2802. It is the purpose of sections 79-2801 to 79-2858 the Private Postsecondary Career School Act to provide for the protection, education, and welfare of the citizens of the State of Nebraska, its private vocational educational institutions postsecondary career schools, 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 schools and

practices;

(2) Prohibiting the granting of false educational credentials;

(3) Prohibiting misleading literature, advertising, solicitation, or representation by educational institutions schools 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 sections 79-2801 to 79-2858 the act.

Sec. 3. That section 79-2803, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2803. As used in sections 79-2801 to 79-2858, unless the context otherwise requires:

(1) Private vocational educational institution shall mean a 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 For purposes of the Private Postsecondary Career School Act.

(1) Agent shall mean 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 shall mean 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 shall mean approval of the board by the department to operate or to contract to operate a private vocational educational

institution postsecondary career school in this state;

(4) Board shall mean the State Board of Education;

(5) Branch facility shall mean 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) Commissioner shall mean the Commissioner of Education;

(7) Course of study or instruction shall mean 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) Department shall mean the State Department of Education;

(9) Education or educational services shall mean any class, course, or program of occupational training, instruction, or study;

(10) Entity shall mean any individual, company, firm, society, group, association, partnership, corporation, trust, or other person;

(11) Grant, with respect to educational credentials, shall mean award, sell, confer, bestow, or give;

(12) Home study school shall mean 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) 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 a described act;

(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 or herself 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;

(10) Board shall mean the State Board of Education; and

(11) Branch facility shall mean an additional facility operated by a private vocational educational institution at a location within this state other than at the principal facility of such institution, when:

(a) The curriculum offered at such additional facility is substantially the same as the curriculum offered at the principal facility;

(b) The ownership, management, and control of each such additional facility are the same as of the principal facility, except as otherwise provided in section 79-2812;

(c) The number of tuition paid students enrolled at each such additional facility does not exceed thirty per class; and

(d) Tuition and other charges incurred by a student for all courses at each such additional facility do not exceed one hundred fifty dollars in any twelve-month period.

(14) Out-of-state school shall mean 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) Principal facility or main school shall mean a private postsecondary career school located in the State of Nebraska;

(16) Private postsecondary career school shall mean any organization or business enterprise which is not specifically exempt under section 79-2804, 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) Resident school shall mean any school offering courses of instruction to its students on the school's premises; and

(18) Separate classroom shall mean 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.

Sec. 4. That section 79-2804, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2804. The following education and ~~educational institutions~~ schools are exempted from the provisions of ~~sections 79-2801 to 79-2858~~ the Private Postsecondary Career School Act:

(1) ~~Institutions~~ 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 solely avocational or recreational in nature, as determined by the board, and institutions offering such education exclusively

department;

(4) Education offered by eleemosynary institutions, organizations, and agencies, if 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) Postsecondary educational institutions Public postsecondary schools established, operated, and governed by this state or its political subdivisions;

(6) Institutions Schools or organizations offering education or instruction which are licensed and regulated by agencies of this state other than the board; department as of September 2, 1977, except that such institutions schools or organizations shall not be exempt from the provisions of sections 79-2801 to 79-2858 the act with respect to agent's permits; and

(7) Institutions 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 colleges and universities which award baccalaureate or higher degrees and which maintain and operate educational programs for which credit is given.

Sec. 5. That section 79-2805, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2805. The board department shall administer the provisions of sections 79-2801 to 79-2858 the Private Postsecondary Career School Act and for the purposes thereof shall employ such personnel as may be necessary. To effectuate the purposes of sections 79-2801 to 79-2858; the board the act, the department 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 department to exercise properly its powers and perform its duties under sections 79-2801 to 79-2858 the act.

Sec. 6. That section 79-2806, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2806. The board department shall have the following powers and duties in the administration of sections 79-2801 to 79-2858 the Private Postsecondary Career School Act:

(1) To establish minimum criteria standards in

conformity with section 79-2808, 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 standards before such authorization or permit may be issued or to continue such authorization or permit in effect. The criteria standards to be developed under this subdivision shall be such as will effectuate the purposes of sections 79-2801 to 79-2858 the 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 a private veational educational institutions postsecondary career school and applications for an agent's permits permit;

(3) To maintain a list of private veational educational institutions and agents postsecondary career schools authorized to operate in this state under the provisions of sections 79-2801 to 79-2858. Such list and agents' permits which 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 79-2848; and

(5) To adopt and promulgate rules, regulations, and procedures necessary and appropriate for the conduct of its work and the implementation of sections 79-2801 to 79-2858. No rules, regulations, or procedures may be promulgated which would require private veational educational institutions to meet standards more stringent than those deemed necessary to be in complianee with section 79-2810 the act.

Sec. 7. That section 79-2807, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2807. The board shall appoint an advisory council of five six representatives of private veational educational institutions postsecondary career schools. Members of the council shall include representatives from a business school, a trade or technical school, a better business bureau, and two three 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 the predecessor. The advisory council shall have the following responsibilities:

(1) To advise the board department in its administration of sections 79-2801 to 79-2858, the Private Postsecondary Career School Act; and

(2) To review the rules and regulations adopted or proposed for adoption by the board department and make recommendations with respect thereto, ; and

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

Sec. 8. That section 79-2808, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2808. The board shall adopt and promulgate rules and regulations to establish minimum standards according to which a private postsecondary career school shall be maintained and operated in the state. A new school shall demonstrate that it can be maintained and operated in accordance with such standards. The standards shall include, but not be limited to, provisions on educational quality, facilities, equipment, qualification of administrators and instructors, publication of catalogs, credentials awarded, records, building and sanitation standards, financial stability, advertising, refund of unearned tuition and fees, and any other aspects deemed necessary by the board, in establishing the criteria required by section 79-2806; 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 of 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. That section 79-2810, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2810. Accreditation by national or regional accrediting agencies recognized by the United States Office Department of Education such as the Association of Independent Colleges and Schools, the Accrediting Council for Continuing Education and Training, the National Accrediting Association of Cosmetology Arts and Sciences, or the National Association of Trade and Technical Schools may or by state agencies shall be accepted by the board department as evidence of compliance with the minimum standards

established in section 79-2808 and the criteria to be established under section pursuant to sections 79-2806 and 79-2808. Accreditation by a recognized, specialized accrediting agency shall such as the Council on Medical Education of the American Medical Association, the Commission on Accreditation of the American Dental Association, or the American Veterinary Medical Association may be accepted as evidence of such compliance only as to the portion or program of an institution a school accredited by such agency if the institution school as a whole is not accredited.

Sec. 10. That section 79-2811, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2811. 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 postsecondary career school not exempted from the provisions of sections 79-2801 to 79-2858 Private Postsecondary Career School Act unless the institution school has a currently valid authorization to operate issued pursuant to sections 79-2801 to 79-2858 section 79-2813;

(2) Offer, as or through an agent, unless such agent is a natural person and has a currently valid agent's permit issued pursuant to section 79-2823, enrollment or instruction in, or the granting of educational credentials from, a private vocational educational institution postsecondary career school not exempted from sections 79-2801 to 79-2858 the 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 sections 79-2801 to 79-2858; nor accept contracts or enrollment applications from an agent any person who does not have a current agent's permit, as required by sections 79-2801 to 79-2858; but the board may adopt and 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, or contract or offer to contract with any institution school 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 79-2808, the criteria established by the board pursuant to section 79-2806, established pursuant to sections 79-2806 and 79-2808 and the rules and regulations adopted by the board pursuant to subdivision (5) of section 79-2806 and promulgated by the department; or

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

Sec. 11. That section 79-2812, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2812. Each private vocational educational institution postsecondary career school desiring authorization to operate in this state shall make application to the board department upon forms to be provided by the board department. The application shall be accompanied by descriptive literature published, or proposed to be published by the institution, school containing the information specified in subdivision (4) of section 79-2808, including information required by the department's rules and regulations, of the board. The application shall include the identification of any branch facility. An additional or separate classroom. A facility which does not meet the criteria provided in subdivision (1) (5) of section 79-2803 is not a branch facility and shall be considered a separate private vocational educational institution postsecondary career school requiring separate authorization. A separate classroom shall not require separate authorization. Any facility at which education is offered by a franchisee of a franchisor authorized to operate as a private vocational educational institution pursuant to sections 79-2801 to 79-2858 shall be deemed a branch facility within the scope of such franchisor's authorization if such franchisor establishes the course curriculum and guidelines for teaching at such facility and the criteria for branch facilities provided in subdivision (1) of section 79-2803 are met. The application shall also be accompanied by a surety bond as provided in section 79-2842 and the application fee provided in section 79-2846.

Sec. 12. That section 79-2813, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2813. Following review of such an application for authorization to operate and any further information submitted by the applicant or required by the board, and department and following such

investigation of the applicant as the board department may deem necessary or appropriate, the board commissioner shall either grant or deny authorization to operate. A grant of authorization to operate may be on such terms and conditions as the board commissioner may specify.

Sec. 13. That section 79-2814, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2814. The authorization to operate shall be in a form approved by the board department 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 full, correct name and address of the institution school so authorized;
- (3) The authority for authorization and conditions thereof; and
- (4) Any limitation of authorization as deemed necessary by the board commissioner.

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

Sec. 14. That section 79-2815, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2815. The authorization to operate shall be issued to the owner, or governing body, of the applicant institution, school and shall be nontransferable. In the event of a change in ownership of the institution school, the new owner or governing body must shall, 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 school shall be deemed an application for renewal of the institution's school'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. 15. That section 79-2816, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2816. At least thirty days prior to the expiration of an authorization to operate, and upon notification by the board, the institution department, the school shall complete and file with the board department 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 postsecondary career school shall be renewed unless such institution school has been accredited by the board department within five years of the date of its initial authorization to operate, except that any institution legally operating on September 2, 1977, shall have five years from such date in which to apply for and receive accreditation or lose its authorization.

Sec. 16. That section 79-2817, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2817. An institution A school 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 commissioner that it has fully complied with the provisions of sections 79-2812 to 79-2816, the institution school 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 The commissioner may issue provisional authorization to operate containing such limitations as to time, procedures, functions, or other conditions as the board commissioner may deem necessary.

Sec. 17. That section 79-2818, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2818. Any private vocational educational institution postsecondary career school offering instruction in the State of Nebraska may shall, within five years of its initial authorization to operate, apply to the board department 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 such school. No private postsecondary career school shall be

accredited unless the institution it submits to the board department a written application for accreditation in accordance with the provisions of sections 79-2801 to 79-2858 Private Postsecondary Career School Act. Such application shall be accompanied by a fee of twenty-five dollars the fee specified in section 79-2846.

Sec. 18. That section 79-2819, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2819. The board department may accredit the courses of instruction offered by a private vocational educational institution postsecondary career school when the institution and its courses are found upon investigation to have school has met the minimum standards as set forth in section 79-2808 specified in the rules and regulations of the department. 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. 19. That section 79-2820, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2820. The board commissioner, upon determining that a private vocational educational institution postsecondary career school has complied with all the requirements of sections 79-2801 to 79-2858 the Private Postsecondary Career School Act and the rules and regulations of the board department, shall issue a certificate of accreditation to the institution school 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 79-2810 and which is and has been awarding associate of applied science degrees for one year prior to January 1, 1978, is authorized to continue awarding such degrees if such institution complies with section 79-2810. Unless disapproved for failure to meet the requirements for accreditation on a continuing basis as provided for in sections 79-2801 to 79-2858 the act and as defined by the rules and regulations, accreditation shall be valid for a period of three five years following the effective date appearing on the certificate. The application for reaccreditation shall be accompanied by the applicable fee. The board department shall annually compile maintain a list of the institutions and courses schools accredited under this section; and make such lists

available to the public upon request.

Sec. 20. That section 79-2820.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2820.01. An institution whose courses have A school which has been accredited pursuant to sections 79-2801 to 79-2858 section 79-2820 may apply to the board department for authority to award associate of applied science degrees. Upon determining that the quality of the courses of instruction at the applicant institution are comparable to similar courses at public or private institutions in the state which award associate of applied science degrees, the board school meet the standards established in the department's rules and regulations, the commissioner may grant the applicant institution the authority to award an associate of applied science degree, and shall issue a certificate setting forth the courses for which the associate of applied science degree may be awarded. Such authorization shall continue so long as the courses offered at the institution remain school remains accredited.

Sec. 21. That section 79-2821, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2821. Any private vocational educational institution having courses accredited, or having been postsecondary career school which has been accredited or authorized to award associate of applied science degrees and pursuant to section 79-2820-01, which ceases to meet any of the requirements for accreditation, or the awarding of associate of applied science degrees, shall be notified of such noncompliance in writing of the specifics by registered or certified mail, giving such institution ten days' notice of a hearing before the board and shall be afforded the opportunity for a hearing to show cause why the accreditation of its courses, or the authorization to award associate of applied science degrees, should not be withdrawn. The board shall adopt and promulgate rules and regulations for the hearing and may utilize a hearing officer to conduct the hearing and to present recommendations, including findings of facts and conclusions of law, to the board for final decision. Following the hearing, if it is determined that the requirements have not been met, the board may withdraw the accreditation or authorization or may require action as a condition of continued accreditation or authorization. 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, or its authorization to award associate of applied science degrees, has been withdrawn.

Sec. 22. That section 79-2822, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2822. 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 79-2806 and 79-2808. Each person desiring to solicit or perform the services of an agent in this state shall make application to the board department upon forms to be provided by the board department. The application shall be accompanied by evidence of the good reputation and character of the applicant and shall state the institution or institutions state the school which the applicant intends to represent. An agent shall obtain a separate agent's permit for each institution school represented. A single agent's permit and surety bond for one institution 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 79-2843 and payment of the application fee provided in section 79-2846.

If any institution school which the applicant intends to represent does not have authorization to operate is not domiciled in this state, the application shall be accompanied by the information required of institutions schools 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 If the state of domicile of the school 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 postsecondary career schools, 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 association agency recognized by the United States Office Department of Education; as specified in section 79-2810 or by the board State Department of Education following an onsite



evaluation of the institution school with all costs of the evaluation borne by the institution school and (2) file with the department a school bond in at least the amount required by section 79-2842.

The application for an agent's permit shall also be accompanied by evidence of a surety bond as provided in section 79-2843 and payment of the application fee provided in section 79-2846.

Sec. 23. That section 79-2823, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2823. Following review of such an application for an agent's permit and any further information submitted by the applicant or required by the board, and department and following such investigation of the applicant as the board department may deem necessary or appropriate, the board commissioner shall either grant or deny an agent's permit to the applicant.

Sec. 24. That section 79-2824, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2824. The agent's permit shall be in a form approved by the board department 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 school 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. That section 79-2825, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2825. At least thirty days prior to the expiration of an agent's permit, the agent shall complete and file with the board department an application form for renewal thereof. The renewal application shall be reviewed and acted upon as provided for an initial application.

Sec. 26. That section 79-2826, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2826. If the board, upon Upon review and consideration of an application for authorization to operate or for an agent's permit, or for renewal

thereof, shall determine if the department determines that the applicant fails to meet the criteria standards established as provided in sections 79-2801 to 79-2858; the board in the Private Postsecondary Career School Act, the department shall so notify the applicant, setting forth the reasons therefor in writing, and shall deny the application.

Sec. 27. That section 79-2827, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2827. The board commissioner may grant to an applicant for renewal an authorization to operate or an agent's permit 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 commissioner the desire to meet the requirements of section 79-2808 and the criteria standards established pursuant to section sections 79-2806 and 79-2808 and if, in the judgment of the board commissioner, it would be reasonably possible for the applicant to meet such requirements and criteria standards within such time.

Sec. 28. That section 79-2828, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2828. If the board commissioner denies an application for an agent's permit, he or she or for renewal thereof; it shall notify the institution school which the agent represented or proposed to represent, according to the records of the board department, including the reasons for denial.

Sec. 29. That section 79-2829, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2829. Any person aggrieved by a decision of the board commissioner respecting denial of an authorization to operate, or of an agent's permit, or the placing of conditions on either 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 79-2830 to 79-2832.

Sec. 30. That section 79-2830, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2830. If, upon written notification of any such action taken by the board commissioner, the aggrieved party desires a hearing and review, such party shall so notify the board in writing within ten business

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 by certified mail.

Sec. 31. That section 79-2831, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2831. 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~~ commissioner's action or in extenuation or mitigation. The hearing shall be conducted in accordance with the Administrative Procedure Act. Any member of the board may preside except when a clear conflict of interest may be demonstrated. The board shall adopt and promulgate rules and regulations for such hearings and may utilize hearing officers to conduct the hearings and to present recommendations, including findings of fact and conclusions of law, to the board for final decision.

Sec. 32. That section 79-2832, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2832. A decision of the board following a 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 ~~sections 79-2801 to 79-2858~~ the Administrative Procedure 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. That section 79-2833, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2833. 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 ~~sections 79-2801 to 79-2858~~ the Private

Postsecondary Career School Act or any rules and regulations adopted and promulgated under sections 79-2801 to 79-2858 the 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 business 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. That section 79-2834, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2834. If a hearing is requested pursuant to section 79-2833, it shall be conducted as provided in sections 79-2830 and 79-2831. The decision of the board shall be made as provided in section 79-2832, and shall be deemed final, subject to the right of judicial review provided in sections 79-2801 to 79-2858 the Administrative Procedure Act. If an agent's permit is revoked or conditions imposed thereon, the board shall notify the institution school which the agent was permitted to represent, as shown in the records of the board department, in addition to the notice required to be given to the agent and any other parties to the hearing.

Sec. 35. That section 79-2835, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2835. Any person claiming damage or loss as a result of any act or practice by a private vocational educational institution postsecondary career school or its agent, or both, which is a violation of sections 79-2801 to 79-2858 the Private Postsecondary Career School Act or of the rules and regulations adopted and promulgated under sections 79-2801 to 79-2858, the act may file with the board a verified complaint against such institution school 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 commissioner or the Attorney General.

Sec. 36. That section 79-2836, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2836. The board may consider a complaint after ten days' written notice by either registered or certified mail, return receipt requested, to such ~~institution~~ school 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 the Administrative Procedure Act.

Sec. 37. That section 79-2837, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2837. If, upon all the evidence at the hearing, the board ~~shall find~~ finds that a private ~~vocational educational institution~~ postsecondary career school or its agent, or both, has engaged in or is engaging in any act or practice which violates ~~sections 79-2801 to 79-2858~~ the Private Postsecondary Career School Act or the rules and regulations adopted and promulgated under ~~sections 79-2801 to 79-2858~~ the act, the board shall issue and cause to be served upon such ~~institution~~ school or agent, or both, an order requiring such ~~institution~~ school 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~~ a school's authorization to operate or an agent's permit.

Sec. 38. That section 79-2842, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2842. At the time application is made for authorization to operate, ~~or for renewal thereof,~~ the ~~board~~ department may require the private ~~vocational educational institution~~ postsecondary career school making such application to file with the ~~board~~ department a good and sufficient surety bond in the penal sum of twenty thousand dollars or other security agreement deemed satisfactory by the ~~board~~ department. Such bond or other security shall cover ~~an institution's~~ branch facilities, ~~and no additional bond or security shall be required of such institution.~~ 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 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 ~~sections 79-2801 to 79-2858~~ by the private vocational educational institution, the Private

Postsecondary Career School Act by the school and that the surety shall pay any final judgment rendered by any court of this state having jurisdiction, upon receipt of written notification ~~thereof of the~~ judgment. 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. 39. That section 79-2843, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2843. 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~~ postsecondary career school, but it shall cover each agent for the ~~institution~~ school in a penal sum of five thousand dollars. The bond shall be conditioned to provide indemnification to any student, or enrollee, or his or her ~~parents~~ parent or guardian determined to have suffered loss or damage as a result of any act or practice which is a violation of ~~sections 79-2801 to 79-2858~~ 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 ~~thereof 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. 40. That section 79-2844, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2844. 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 is~~ released as provided in this section. A surety on any bond or agreement filed under ~~the provisions of sections 79-2801 to 79-2858~~ section 79-2842 or 79-2843 may be released therefrom after such surety ~~shall serve~~ serves written notice thereof on the ~~board~~ department 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 or her parent or guardian for loss or damage resulting from any act or practice which is a violation of ~~sections 79-2801 to 79-2858~~ the Private Postsecondary Career School Act alleged to have occurred while the bond or agreement was in effect, ~~nor for an institution's or for a school's~~ ceasing operations during the term for which tuition has been paid while the bond or agreement was in force.

Sec. 41. That section 79-2845, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2845. Authorization for an institution a school to operate and an agent's permit shall be suspended by operation of law when the institution school or agent is no longer covered by a surety bond or agreement as required by sections ~~79-2801 to 79-2858~~ 79-2842 and 79-2843. The board commissioner shall cause the institution school 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~~ is filed in the same manner and like amount as the bond or agreement being terminated.

Sec. 42. That section 79-2846, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2846. All fees collected pursuant to ~~sections 79-2801 to 79-2858~~ shall be deposited in the state treasury to the credit of this section shall be remitted by the department to the State Treasurer who shall credit them to the General Fund. No fees collected under the provisions of ~~sections 79-2801 to 79-2858~~ shall be subject to refund. The fees to be collected by the board under ~~sections 79-2801 to 79-2858~~ 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 a private vocational educational institutions postsecondary career school shall be fifty dollars;

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

(3) The additional annual fee for each branch facility of an institution shall be twenty dollars;

(4) The ~~initial~~ fee for an agent's permit shall be twenty dollars; and

(5) The annual renewal fee for an agent's

permit shall be twenty dollars; and

(6) (3) The initial or renewal fee for accreditation shall be fifty dollars. The cost of onsite survey shall be borne by the institution school.

Sec. 43. That section 79-2848, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2848. If any private vocational educational institution postsecondary career school now or hereafter operating in this state proposes to discontinue its operation, the chief administrative officer of such institution school shall cause to be filed with the board department the original or legible true copies of all records of such institution academic and financial aid transcripts and such other records of the school 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 department. If there is a change of ownership, the records shall be transferred intact and in good condition to the new owner and the transfer shall be verified by the department. The department shall maintain or cause to be maintained a permanent file of such records coming into its possession.

Sec. 44. That section 79-2849, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2849. If the person to whom educational services are to be rendered or furnished by a private vocational educational institution postsecondary career school 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 79-2849 to 79-2853 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. 45. That section 79-2850, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2850. 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~~ postsecondary career school operating in this state unless the ~~institution shall have~~ school has received authorization to operate under the provisions of sections 79-2801 to 79-2858; ~~nor~~ or (2) any private ~~vocational educational institution~~ postsecondary career school 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. 46. That section 79-2851, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2851. Any lending agency extending credit or lending money to any person for tuition, fees, or charges whatever of a private ~~vocational educational institution~~ postsecondary career school for educational or other services or facilities to be rendered or furnished by the ~~institution~~ school 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. 47. That section 79-2852, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2852. Notwithstanding the presence or absence of the notation required by section 79-2851; 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 ~~voeational educational institution~~ postsecondary career school 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. 48. That section 79-2853, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2853. For purposes of sections 79-2851 and 79-2852, lending agency shall mean (1) any private ~~voeational educational institution, or any person, group, or entity~~ postsecondary career school or (2) any entity (a) controlling, controlled by, or held in common ownership with; such institution; or such a school or (b) regularly lending money to; such a school or to students of; ~~such institution such a school.~~

Sec. 49. That section 79-2855, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2855. Any ~~person, group, entity, or any owner, officer, agent, or employee thereof, who shall willfully violate the provisions of who willfully violates~~ section 79-2811; ~~or who shall willfully fail or refuse or willfully fails or refuses to deposit with the board department the records required by section 79-2848;~~ shall be guilty of a Class II 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. 50. That section 79-2856, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2856. Any private ~~voeational educational institution not exempt from sections 79-2801 to 79-2858~~ postsecondary career school not exempt under section 79-2804, 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 to a resident of 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; school~~ and, if a natural person, his or her 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 ~~sections 79-2801 to 79-2858~~ the Private Postsecondary Career School Act by injunction pursuant to sections 79-2857 and 79-2858.

Sec. 51. That section 79-2857, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2857. The Attorney General or the county attorney of any county in which a private ~~vocational educational institution postsecondary career school~~ or an agent thereof is found, at the request of the board or on his or her own motion, may bring any appropriate action or proceeding in any court of competent jurisdiction for the enforcement of the ~~provisions of sections 79-2801 to 79-2858~~ Private Postsecondary Career School Act.

Sec. 52. That section 79-2858, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2858. Whenever it shall appear to the ~~board~~ appears to the commissioner that any person, agent, group, or entity is or has been violating any of the provisions of ~~sections 79-2801 to 79-2858~~ the Private Postsecondary Career School 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, or department, the commissioner may file a petition for injunction in the name of the board department 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 sections 79-2801 to 79-2858, and all the act and the rules, regulations, and orders, issued under sections 79-2801 to 79-2858.~~ It shall not be necessary that the ~~board commissioner~~ allege or prove that it has there is 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 department~~ may have, and shall be in addition to any right of criminal prosecution provided by law. The ~~board commissioner~~ 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 ~~sections 79-2801 to 79-2858~~ shall not

operate as a bar to an action for injunctive relief pursuant to this section.

Sec. 53. That original sections 79-2801 to 79-2808, 79-2810 to 79-2837, 79-2842 to 79-2846, 79-2848 to 79-2853, and 79-2855 to 79-2858, Reissue Revised Statutes of Nebraska, 1943, and also sections 79-2809, 79-2847, and 79-2854, Reissue Revised Statutes of Nebraska, 1943, are repealed.