

LEGISLATIVE BILL 29

Approved by the Governor April 15, 1996

Introduced by Warner, 25, at the request of the Governor

AN ACT relating to postsecondary educational institutions; to amend section 85-1610, Revised Statutes Supplement, 1995; to require fees for the reimbursement of certain costs paid by the state relating to defaults on student loans; to provide powers and duties for the Coordinating Commission for Postsecondary Education; to provide for the revocation of certain authorizations and permits; to create a fund; to prohibit certain acts; to provide severability; to repeal the original section; and to declare an emergency.

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

Section 1. (1)(a) Each postsecondary educational institution in the State of Nebraska that participates in the Federal Family Education Loan Program or the Federal Direct Student Loan Program, under Title IV of the federal Higher Education Act of 1965, as amended, shall reimburse the state for its proportionate share of any default cost fee charged to the state by the United States Secretary of Education under the federal act.

(b) Each postsecondary educational institution which (i) is currently in operation, (ii) participated in the Federal Family Education Loan Program or the Federal Direct Student Loan Program, and (iii) for the relevant time period had a cohort default rate equal to or in excess of the percentage which directly triggered the relevant default cost fee charged to the state shall be required to remit an excess default rate fee in addition to its proportionate share of the relevant default cost fee charged to the state. Such excess default rate fee shall be two hundred percent of the institution's proportionate share of the relevant default cost fee.

(c) The balance of the relevant default cost fee charged to the state and not assessed pursuant to subdivision (b) of this subsection shall be assessed to postsecondary educational institutions which are currently in operation and which participated in the Federal Family Education Loan Program or the Federal Direct Student Loan Program for the relevant time period, excluding those institutions subject to assessment pursuant to such subdivision.

(d) Any postsecondary educational institution subject to assessment pursuant to subdivision (c) of this subsection shall not be assessed an amount exceeding the respective institution's proportionate share of the relevant default cost fee charged to the state. Such proportionate share means an amount which, in proportion to the total of the relevant default cost fee charged to the state by the United States Secretary of Education, is equal to the proportion of Federal Family Education Loan Program and Federal Direct Student Loan Program loan default dollar volume attributable to the respective institution to the total of Federal Family Education Loan Program and Federal Direct Student Loan Program loan default dollar volume for all institutions which participated in the Federal Family Education Loan Program and the Federal Direct Student Loan Program for the relevant time period.

(2) The Coordinating Commission for Postsecondary Education shall adopt and promulgate rules and regulations establishing a fee structure for determining the amount of the reimbursement for each institution as provided in subsection (1) of this section.

(3) Any institution with a valid authorization to operate pursuant to the Private Postsecondary Career School Act which has a cohort default rate which triggers state liability pursuant to section 428(n) of the federal Higher Education Act of 1965, as amended, has violated the Private Postsecondary Career School Act. A hearing to determine whether the institution should have its authorization to operate or its agent's permit revoked shall be held in accordance with section 85-1634.

(4) Unless prohibited by federal law, the commission may charge and collect an administrative fee, not to exceed ten percent of the proportionate share of the relevant default cost fee, from any Nebraska postsecondary educational institution to cover the administrative expenses incurred by the commission in carrying out this section.

(5) Notwithstanding any other provision of law to the contrary, the rules and regulations may provide that a postsecondary educational institution may be exempt from the fees or the commission may adjust the fees of an institution if the institution demonstrates that exceptional mitigating circumstances contributed to its high cohort default rate.

Sec. 2. (1) The Student Loan Default Fee Revolving Fund is created. The fund shall be under the direction of the Coordinating Commission for Postsecondary Education. The commission shall remit all revenue received from fees charged under section 1 of this act to the State Treasurer for credit to the fund. Expenditures may be made from the fund, after appropriation by the Legislature, for payments to the federal government for relevant default cost fees charged to the State of Nebraska by the United States Secretary of Education or to reimburse the General Fund for any such payments which have been made to the federal government.

(2) If not inconsistent with federal law, up to ten percent of the revenue remitted to the fund may be appropriated and used to defray the administrative expenses of the activities undertaken pursuant to section 1 of this act.

(3) Any money in the 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.

Sec. 3. Section 85-1610, Revised Statutes Supplement, 1995, is amended to read:

85-1610. No entity of whatever kind, alone or in concert with others, shall:

(1) Operate in this state a private postsecondary career school not exempted from the Private Postsecondary Career School Act unless the school has a currently valid authorization to operate issued pursuant to section 85-1612;

(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 85-1623, enrollment or instruction in or the granting of educational credentials from a private postsecondary career school not exempted from the act, whether such institution is within or outside this state, nor accept contracts or enrollment applications from any person who does not have a current agent's permit, 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, 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 school or party to perform any such act in this state, whether such entity is located within or without this state, unless such entity observes and is in compliance with the minimum standards established pursuant to sections 85-1606 and 85-1608 and the rules and regulations adopted and promulgated by the department; ~~or~~

(4) Grant or offer to grant educational credentials without authorization to do so from the department; ~~or~~

(5) Have a cohort default rate which triggers state liability pursuant to section 428(n) of the federal Higher Education Act of 1965, as amended, under section 1 of this act.

Sec. 4. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 5. Original section 85-1610, Revised Statutes Supplement, 1995, is repealed.

Sec. 6. Since an emergency exists, this act takes effect when passed and approved according to law.