

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1069

Introduced by Sullivan, 41.

Read first time January 22, 2014

Committee:

A BILL

1 FOR AN ACT relating to education; to amend sections 1-116, 79-526,
2 79-535, 79-1102, and 79-1337, Reissue Revised Statutes of
3 Nebraska, sections 79-319, 79-8,133, 79-8,137.01, and
4 85-2407, Revised Statutes Cumulative Supplement, 2012,
5 and sections 79-1118.01, 85-1603, 85-1604, and 85-2405,
6 Revised Statutes Supplement, 2013; to change provisions
7 relating to an accrediting commission and distance
8 education incentives; to provide authorization for
9 expenditures as prescribed; to provide duties for the
10 Early Childhood Training Center; to define and redefine
11 terms relating to the Special Education Act; to change
12 provisions relating to the Private Postsecondary Career
13 School Act; to harmonize provisions; and to repeal the
14 original sections.

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

1 Section 1. Section 1-116, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 1-116 Prior to January 1, 1998, a person shall be
4 eligible to take the examination described in section 1-114 if he or
5 she meets the requirements of subdivision (1)(a) of section 1-114.

6 Any person making initial application on or after January
7 1, 1998, to take the examination described in section 1-114 shall be
8 eligible to take the examination if he or she has completed at least
9 one hundred fifty semester hours or two hundred twenty-five quarter
10 hours of postsecondary academic credit and has earned a baccalaureate
11 or higher degree from a college or university accredited by ~~the North~~
12 ~~Central Association of Colleges and Universities~~ a regional
13 accrediting agency recognized by the United States Department of
14 Education or a similar agency as determined to be acceptable by the
15 board. The person shall demonstrate that accounting, auditing,
16 business, and other subjects at the appropriate academic level as
17 required by the board are included within the required hours of
18 postsecondary academic credit. A person who expects to complete the
19 postsecondary academic credit and earn the degree as required by this
20 section within sixty days following when the examination is held
21 shall be eligible to take such examination, but such person shall not
22 receive any credit for such examination unless evidence satisfactory
23 to the board showing that such person has completed the postsecondary
24 academic credit and earned the degree as required by this section is
25 received by the board within ninety days following when the

1 examination is held. The board shall not prescribe the specific
2 curricula of colleges or universities. If the applicant is an
3 individual, the application shall include the applicant's social
4 security number.

5 Sec. 2. Section 79-319, Revised Statutes Cumulative
6 Supplement, 2012, is amended to read:

7 79-319 The State Board of Education has the authority to
8 (1) provide for the education of and approve special educational
9 facilities and programs provided in the public schools for children
10 with disabilities, (2) act as the state's authority for the approval
11 of all types of veterans educational programs and have jurisdiction
12 over the administration and supervision of on-the-job and
13 apprenticeship training, on-the-farm training, and flight training
14 programs for veterans which are financially supported in whole or in
15 part by the federal government, (3) supervise and administer any
16 educational or training program established within the state by the
17 federal government, except postsecondary education in approved
18 colleges, (4) coordinate educational activities in the state that
19 pertain to elementary and secondary education and such other
20 educational programs as are placed by statute under the jurisdiction
21 of the board, (5) receive and distribute according to law any money,
22 commodities, goods, or services made available to the board from the
23 state or federal government or from any other source and distribute
24 money in accordance with the terms of any grant received, including
25 the distribution of money from grants by the federal government to

1 schools, preschools, day care centers, day care homes, nonprofit
2 agencies, and political subdivisions of the state or institutions of
3 learning not owned or exclusively controlled by the state or a
4 political subdivision thereof, so long as no public funds of the
5 state, any political subdivision, or any public corporation are added
6 to such federal grants, (6) publish, from time to time, directories
7 of schools and educators, pamphlets, curriculum guides, rules and
8 regulations, handbooks on school constitution and other matters of
9 interest to educators, and similar publications. Such publications
10 may be distributed without charge to schools and school officials
11 within this state or may be sold at a price not less than the actual
12 cost of printing. The proceeds of such sale shall be remitted to the
13 State Treasurer for credit to the State Department of Education Cash
14 Fund which may be used by the State Department of Education for the
15 purpose of printing and distributing further such publications on a
16 nonprofit basis. ~~The board shall furnish eight copies~~ Copies of such
17 publications shall be provided to the Nebraska Publications
18 Clearinghouse pursuant to section 51-413, and (7) when necessary for
19 the proper administration of the functions of the department and with
20 the approval of the Governor and the Department of Administrative
21 Services, rent or lease space outside the State Capitol.

22 Sec. 3. Section 79-526, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 79-526 (1) The school board or board of education of a
25 Class I, II, III, IV, or VI school district has responsibility for

1 the general care and upkeep of the schools, shall provide the
2 necessary supplies and equipment, and, except as otherwise provided,
3 has the power to cause pupils to be taught in such branches and
4 classified in such grades or departments as may seem best adapted to
5 a course of study which the board shall establish with the consent
6 and advice of the State Department of Education. The board shall make
7 provision for pupils that may enter at any time during the school
8 year. The board shall have a record kept of the advancement of all
9 pupils in each branch of study. The board shall make rules and
10 regulations as it deems necessary for the government and health of
11 the pupils and devise any means as may seem best to secure the
12 regular attendance and progress of children at school.

13 (2) The school board may make expenditures for supplies,
14 equipment, travel, meals, and lodging for school programs and
15 activities, including extracurricular and interscholastic activities,
16 appropriate for the benefit, government, and health of pupils
17 enrolled in the school district.

18 Sec. 4. Section 79-535, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 79-535 All Class V school districts shall be under the
21 direction and control of the school board or board of education
22 authorized by section 79-552. The school board or board of education
23 may make expenditures for supplies, equipment, travel, meals, and
24 lodging for school programs and activities, including extracurricular
25 and interscholastic activities, appropriate for the benefit,

1 government, and health of pupils enrolled in the school district.

2 Sec. 5. Section 79-8,133, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

4 79-8,133 The Attracting Excellence to Teaching Program is
5 created. For purposes of the Attracting Excellence to Teaching
6 Program:

7 (1) Department means the State Department of Education;

8 (2) Eligible institution means a not-for-profit college
9 or university which (a) is located in Nebraska, (b) is accredited by
10 ~~the North Central Association of Colleges and Schools, a regional~~
11 accrediting agency recognized by the United States Department of
12 Education as determined to be acceptable by the State Board of
13 Education, (c) has a teacher education program, and (d) if a
14 privately funded college or university, has not opted out of the
15 program pursuant to rules and regulations;

16 (3) Eligible student means an individual who (a) is a
17 full-time student, (b) is enrolled in an eligible institution in an
18 undergraduate or a graduate teacher education program working toward
19 his or her initial certificate to teach in Nebraska, (c) if enrolled
20 at a state-funded eligible institution, is a resident student as
21 described in section 85-502 or, if enrolled in a privately funded
22 eligible institution, would be deemed a resident student if enrolled
23 in a state-funded eligible institution, (d) for applicants applying
24 for the first time on or after April 23, 2009, is a student majoring
25 in a shortage area, and (e) for applicants applying to receive a loan

1 during fiscal year 2011-12 or 2012-13, is a student who previously
2 received a loan pursuant to the Attracting Excellence to Teaching
3 Program in the fiscal year immediately preceding the fiscal year in
4 which the new loan would be received;

5 (4) Full-time student means, in the aggregate, the
6 equivalent of a student who in a twelve-month period is enrolled in
7 twenty-four semester credit hours for undergraduate students or
8 eighteen semester credit hours for graduate students of classroom,
9 laboratory, clinical, practicum, or independent study course work;

10 (5) Majoring in a shortage area means pursuing a degree
11 which will allow an individual to be properly endorsed to teach in a
12 shortage area;

13 (6) Shortage area means a secular field of teaching for
14 which there is a shortage, as determined by the department, of
15 properly endorsed teachers at the time the borrower first receives
16 funds pursuant to the program; and

17 (7) Teacher education program means a program of study
18 approved by the State Board of Education pursuant to subdivision (5)
19 (g) of section 79-318.

20 Sec. 6. Section 79-8,137.01, Revised Statutes Cumulative
21 Supplement, 2012, is amended to read:

22 79-8,137.01 The Enhancing Excellence in Teaching Program
23 is created. For purposes of the Enhancing Excellence in Teaching
24 Program:

25 (1) Department means the State Department of Education;

1 (2) Eligible graduate program means a program of study
2 offered by an eligible institution which results in obtaining a
3 graduate degree;

4 (3) Eligible institution means a not-for-profit college
5 or university which (a) is located in Nebraska, (b) is accredited by
6 ~~the North Central Association of Colleges and Schools, a regional~~
7 accrediting agency recognized by the United States Department of
8 Education as determined to be acceptable by the State Board of
9 Education, (c) has a teacher education program, and (d) if a
10 privately funded college or university, has not opted out of the
11 Enhancing Excellence in Teaching Program pursuant to rules and
12 regulations;

13 (4) Eligible student means an individual who (a) is a
14 certificated teacher employed to teach in an approved or accredited
15 school in Nebraska, (b) is enrolled in an eligible graduate program,
16 (c) if enrolled at a state-funded eligible institution, is a resident
17 student as described in section 85-502 or, if enrolled in a privately
18 funded eligible institution, would be deemed a resident student if
19 enrolled in a state-funded eligible institution, (d) is majoring in a
20 shortage area, curriculum and instruction, a subject area in which
21 the individual already holds a secular teaching endorsement, or a
22 subject area that will result in an additional secular teaching
23 endorsement which the superintendent of the school district or head
24 administrator of the private, denominational, or parochial school
25 employing the individual believes will be beneficial to the students

1 of such school district or school as evidenced by a statement signed
2 by the superintendent or head administrator, and (e) is applying for
3 a loan pursuant to the Enhancing Excellence in Teaching Program to be
4 received at a time other than during fiscal year 2011-12 or 2012-13;

5 (5) Majoring in a shortage area or subject area means
6 pursuing a degree which will allow an individual to be properly
7 endorsed to teach in such shortage area or subject area; and

8 (6) Shortage area means a secular field of teaching for
9 which there is a shortage, as determined by the department, of
10 properly endorsed teachers at the time the borrower first receives
11 funds pursuant to the Enhancing Excellence in Teaching Program.

12 Sec. 7. Section 79-1102, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 79-1102 (1) ~~On September 1, 2007, an~~ An Early Childhood
15 Training Center shall be established within the State Department of
16 Education. The purpose of the center is to train individuals who
17 provide education and development activities for infants and young
18 children and their parents. The center, taking into consideration
19 existing public and private training efforts, shall provide support
20 and assistance to schools and public and private providers of early
21 childhood education services in developing training programs for
22 staff. The center, in consultation with the Department of Health and
23 Human Services, shall approve training that is used to satisfy child
24 care licensing criteria for required training, annual inservice
25 training, and training needed for participation or advancement in the

1 quality rating and improvement system established pursuant to the
2 Step Up to Quality Child Care Act. The center, taking into
3 consideration existing public and private training efforts, shall
4 also provide clearinghouse information and publications on available
5 early childhood education training opportunities throughout the
6 state.

7 (2) The center shall establish a statewide training
8 program to support the development of parent education programs in
9 local communities. The goal of this project is to train individuals
10 who will be able to work with public and private providers of early
11 childhood services to establish parent education programs in their
12 communities.

13 ~~(3) Effective September 1, 2007, the department shall~~
14 ~~assume the direct responsibility for all operations of the Early~~
15 ~~Childhood Training Center operated under the jurisdiction of the~~
16 ~~department by an educational service unit prior to September 1, 2007.~~

17 ~~(4) Any employees of an educational service unit which~~
18 ~~operated the Early Childhood Training Center prior to September 1,~~
19 ~~2007, who separate from employment with the educational service unit~~
20 ~~effective August 31, 2007, to become employees of the department on~~
21 ~~September 1, 2007, shall be subject to the following provisions:~~

22 ~~(a) The educational service unit shall transfer to the~~
23 ~~department all accrued sick leave of each transferred employee and up~~
24 ~~to a maximum of two hundred eighty accrued vacation leave hours of~~
25 ~~each transferred employee;~~

1 ~~(b) The educational service unit shall not be required to~~
2 ~~reimburse the department for any of the value of the accrued sick or~~
3 ~~vacation leave hours transferred; and~~

4 ~~(c) For purposes of establishing seniority and rates for~~
5 ~~earning sick and vacation leave, such employees shall have a service~~
6 ~~date with the department beginning September 1, 2007. Any employee~~
7 ~~who returns to employment with the department after a break in~~
8 ~~service of less than five calendar years shall have his or her prior~~
9 ~~service recognized and the beginning service date adjusted~~
10 ~~accordingly for the period of absence.~~

11 Sec. 8. Section 79-1118.01, Revised Statutes Supplement,
12 2013, is amended to read:

13 79-1118.01 Disability means an impairment which causes a
14 child to be diagnosed with an intellectual disability; a hearing,
15 speech, language, or visual impairment; a behavioral disorder; an
16 orthopedic impairment; another health impairment; deafness or
17 blindness; or a developmental delay or as having multiple
18 disabilities or specific learning disabilities, traumatic brain
19 injury, or autism identified as having at least one of the conditions
20 defined in this section and causes such child to need special
21 education and related services. For purposes of this section:

22 (1) Autism means a developmental disability significantly
23 affecting verbal and nonverbal communication and social interaction,
24 generally evident before age three, that adversely affects a child's
25 educational performance. Other characteristics often associated with

1 autism are engagement in repetitive activities and stereotyped
2 movements, resistance to environmental change or change in daily
3 routines, and unusual responses to sensory experiences. Autism does
4 not apply if a child's educational performance is adversely affected
5 primarily because the child has a ~~serious~~ an emotional disturbance;

6 ~~(2) Behavior disorder means a condition in which a child~~
7 ~~exhibits one or more of the following characteristics over a long~~
8 ~~period of time and to a marked degree which adversely affects~~
9 ~~educational performance:~~

10 ~~(a) An inability to learn which cannot be explained by~~
11 ~~intellectual, sensory, or health factors;~~

12 ~~(b) An inability to build or maintain satisfactory~~
13 ~~interpersonal relationships with peers and teachers;~~

14 ~~(c) Inappropriate types of behavior or feelings under~~
15 ~~normal circumstances;~~

16 ~~(d) A general pervasive mood of unhappiness or~~
17 ~~depression; or~~

18 ~~(e) A tendency to develop physical symptoms or fears~~
19 ~~associated with personal or school problems.~~

20 ~~Behavior disorder includes schizophrenia but does not~~
21 ~~include social maladjustment unless the characteristics defined in~~
22 ~~subdivision (a) or (b) of this subdivision are also present;~~

23 ~~(3)~~ (2) Blind and visually impaired means partially
24 seeing or blind, which visual impairment, even with correction,
25 adversely affects a child's educational performance;

1 ~~(4)~~(3) Deaf means a hearing impairment which is so
2 severe that processing linguistic information through hearing, with
3 or without amplification, is impaired to the extent that educational
4 performance is adversely affected;

5 ~~(5)~~(4) Deaf-blind means concomitant hearing and visual
6 impairments, the combination of which causes such severe
7 communication and other developmental and educational problems that
8 such impairments cannot be accommodated in special education programs
9 solely for children who are deaf or blind;

10 ~~(6)~~(5) Developmental delay means either (a) a
11 significant delay in function in one or more of the following areas:
12 ~~(a)~~(i) Cognitive development; ~~(b)~~(ii) physical development; ~~(c)~~
13 (iii) communication development; ~~(d)~~(iv) social or emotional
14 development; or ~~(e)~~(v) adaptive behavior or skills development, or
15 (b) a diagnosed physical or mental condition that has a high
16 probability of resulting in a substantial delay in function in one or
17 more of such areas;

18 (6)(a) Emotional disturbance means a condition in which a
19 student exhibits one or more of the following characteristics over a
20 long period of time and to a marked degree which adversely affects
21 educational performance:

22 (i) An inability to learn which cannot be explained by
23 intellectual, sensory, or health factors;

24 (ii) An inability to build or maintain satisfactory
25 interpersonal relationships with peers and teachers;

1 (iii) Inappropriate types of behavior or feelings under
2 normal circumstances;

3 (iv) A general pervasive mood of unhappiness or
4 depression; or

5 (v) A tendency to develop physical symptoms or fears
6 associated with personal or school problems.

7 (b) Emotional disturbance includes schizophrenia but does
8 not include social maladjustment unless a characteristic defined in
9 subdivision (6)(a)(i) or (ii) of this section is also present;

10 (7) Hard of hearing means a hearing impairment, whether
11 permanent or fluctuating, which adversely affects educational
12 performance but is not included under the term deaf in subdivision
13 ~~(4)~~(3) of this section;

14 (8) Intellectual disability means a condition in which a
15 child exhibits significantly subaverage general intellectual
16 functioning existing concurrently with deficits in adaptive behavior
17 and manifested during the developmental period which adversely
18 affects educational performance;

19 (9) Multiple disabilities means concomitant impairments,
20 such as intellectual disability-blind or intellectual disability-
21 orthopedic impairment, the combination of which causes such severe
22 educational problems that a child with such impairments cannot be
23 accommodated in special education programs for one of the
24 impairments. Multiple disabilities does not include deaf-blind;

25 (10) Orthopedic impairment means a severe orthopedic

1 impairment which adversely affects a child's educational performance.
2 Severe orthopedic impairments include impairments caused by (a)
3 congenital anomaly, including, but not limited to, clubfoot or
4 absence of a member, (b) disease, including, but not limited to,
5 poliomyelitis or bone tuberculosis, or (c) other causes, including,
6 but not limited to, cerebral palsy, amputations, and fractures and
7 burns which cause contractures;

8 (11) Other health impaired means having limited strength,
9 vitality, or alertness due to chronic or acute health problems,
10 including, but not limited to, a heart condition, tuberculosis,
11 rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia,
12 epilepsy, lead poisoning, leukemia, or diabetes, which adversely
13 affects a child's educational performance;

14 (12) Specific learning disability means a disorder in one
15 or more of the basic psychological processes involved in
16 understanding or in using language, spoken or written, which may
17 manifest itself in an imperfect ability to listen, think, speak,
18 read, write, spell, or do mathematical calculations. Specific
19 learning disability includes, but is not limited to, perceptual
20 disabilities, brain injury, minimal brain dysfunction, dyslexia, and
21 developmental aphasia;

22 (13) Speech-and-language-impaired means having a
23 communication disorder such as stuttering, impaired articulation,
24 language impairments, or voice impairment which adversely affects a
25 child's educational performance; and

1 (14) Traumatic brain injury means an acquired injury to
2 the brain caused by an external physical force, resulting in total or
3 partial functional disability or psychosocial impairment, or both,
4 that adversely affects a child's educational performance. Traumatic
5 brain injury applies to open or closed head injuries resulting in
6 impairments in one or more areas, including cognition; language;
7 memory; attention; reasoning; abstract thinking; judgment; problem
8 solving; sensory, perceptual, and motor abilities; psychosocial
9 behavior; physical functions; information processing; and speech.
10 Traumatic brain injury does not include brain injuries that are
11 congenital or degenerative or brain injuries induced by birth trauma.

12 The State Department of Education may group or subdivide
13 the classifications of children with disabilities for the purpose of
14 program description and reporting. The department shall establish
15 eligibility criteria and age ranges for the disability classification
16 of developmental delay.

17 Sec. 9. Section 79-1337, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 79-1337 (1) For fiscal years 2007-08 through 2015-16, the
20 State Department of Education shall provide distance education
21 incentives from the Education Innovation Fund to school districts and
22 educational service units for qualified distance education courses
23 coordinated through the Distance Education Council until July 1,
24 2008, and the Educational Service Unit Coordinating Council on and
25 after July 1, 2008, as provided in this section.

1 (2) School districts and educational service units shall
2 apply for incentives annually through calendar year 2015 to the
3 department on or before August 1 on a form specified by the
4 department. The application shall:

5 (a) For school districts, specify (i) the qualified
6 distance education courses which were received by students in the
7 membership of the district in the then-current school fiscal year and
8 which were not taught by a teacher employed by the school district
9 and (ii) for each such course (A) the number of students in the
10 membership of the district who received the course, (B) the
11 educational entity employing the teacher, and (C) whether the course
12 was a two-way interactive video distance education course; and

13 (b) For school districts and educational service units,
14 specify (i) the qualified distance education courses which were
15 received by students in the membership of another educational entity
16 in the then-current school fiscal year and which were taught by a
17 teacher employed by the school district or educational service unit,
18 (ii) for each such course for school districts, the number of
19 students in the membership of the district who received the course,
20 and (iii) for each such course (A) the other educational entities in
21 which students received the course and how many students received the
22 course at such educational entities, (B) any school district that is
23 sparse or very sparse as such terms are defined in section 79-1003
24 that had at least one student in the membership who received the
25 course, and (C) whether the course was a two-way interactive video

1 distance education course.

2 (3) On or before September 1 of each year through
3 calendar year 2015, the department shall certify the incentives for
4 each school district and educational service unit which shall be paid
5 on or before October 1 of such year. The incentives for each district
6 shall be calculated as follows:

7 (a) Each district shall receive distance education units
8 for each qualified distance education course as follows:

9 (i) One distance education unit for each qualified
10 distance education course received as reported pursuant to
11 subdivision (2)(a) of this section if the course was a two-way
12 interactive video distance education course;

13 (ii) One distance education unit for each qualified
14 distance education course sent as reported pursuant to subdivision
15 (2)(b) of this section if the course was not received by at least one
16 student who was in the membership of another school district which
17 was sparse or very sparse;

18 (iii) One distance education unit for each qualified
19 distance education course sent as reported pursuant to subdivision
20 (2)(b) of this section if the course was received by at least one
21 student who was in the membership of another school district which
22 was sparse or very sparse, but the course was not a two-way
23 interactive video distance education course; and

24 (iv) Two distance education units for each qualified
25 distance education course sent as reported pursuant to subdivision

1 (2)(b) of this section if the course was received by at least one
2 student who was in the membership of another school district which
3 was sparse or very sparse and the course was a two-way interactive
4 video distance education course;

5 (b) The difference of the amount available for
6 distribution in the Education Innovation Fund on the August 1 when
7 the applications were due minus any amount to be paid to school
8 districts pursuant to section 79-1336 shall be divided by the number
9 of distance education units to determine the incentive per distance
10 education unit, except that the incentive per distance education unit
11 shall not equal an amount greater than one thousand dollars; and

12 (c) The incentives for each school district shall equal
13 the number of distance education units calculated for the school
14 district multiplied by the incentive per distance education unit.

15 (4) If there are additional funds available for
16 distribution after equipment reimbursements pursuant to section
17 79-1336 and incentives calculated pursuant to subsections (1) through
18 (3) of this section, school districts and educational service units
19 may qualify for additional incentives for elementary distance
20 education courses. Such incentives shall be calculated for sending
21 and receiving school districts and educational service units as
22 follows:

23 (a) The per-hour incentives shall equal the funds
24 available for distribution after equipment reimbursements pursuant to
25 section 79-1336 and incentives calculated pursuant to subsections (1)

1 through (3) of this section divided by the sum of the hours of
2 elementary distance education courses sent or received for each
3 school district and educational service unit submitting an
4 application, except that the per-hour incentives shall not be greater
5 than ten dollars; and

6 (b) The elementary distance education incentives for each
7 school district and educational service unit shall equal the per-hour
8 incentive multiplied by the hours of elementary distance education
9 courses sent or received by the school district or educational
10 service unit.

11 (5) The department may verify any or all application
12 information using annual curriculum reports and may request such
13 verification from the council.

14 (6) On or before October 1 of each year through calendar
15 year 2015, a school district or educational service unit may appeal
16 the denial of incentives for any course by the department to the
17 State Board of Education. The board shall allow a representative of
18 the school district or educational service unit an opportunity to
19 present information concerning the appeal to the board at the
20 November board meeting. If the board finds that the course meets the
21 requirements of this section, the department shall pay the district
22 from the Education Innovation Fund as soon as practical in an amount
23 for which the district or educational service unit should have
24 qualified based on the incentive per distance education unit used in
25 the original certification of incentives pursuant to this section.

1 (7) The State Board of Education shall adopt and
2 promulgate rules and regulations to carry out this section.

3 Sec. 10. Section 85-1603, Revised Statutes Supplement,
4 2013, is amended to read:

5 85-1603 For purposes of the Private Postsecondary Career
6 School Act:

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

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

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

22 (4) Board means the State Board of Education;

23 (5) Branch facility means a facility (a) which is
24 separate from a principal facility, (b) which offers a full program
25 and full student services, (c) which is under the supervision of an

1 onsite director or administrator, and (d)(i) the ownership,
2 management, and control of which are the same as the principal
3 facility, which principal facility is responsible for the delivery of
4 all services, or (ii) at which education is offered by a franchisee
5 of a franchisor authorized to operate as a private postsecondary
6 career school pursuant to the act if the franchisor establishes the
7 course curriculum and guidelines for teaching at the franchisee's
8 facility;

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

11 (7) Commissioner means the Commissioner of Education;

12 (8) Course of study or instruction means a program of
13 study, training, or instruction consisting of a series of lessons or
14 classes which are coordinated as a curriculum or program of
15 instruction to prepare or qualify individuals or improve or upgrade
16 the skills needed for employment, career opportunities, or any
17 specific occupation;

18 (9) Department means the State Department of Education;

19 (10) Distance education means instruction offered by any
20 means in which the student and faculty member are in separate
21 physical locations and includes, but is not limited to, online,
22 interactive video, and correspondence courses or programs;

23 ~~(10)~~ (11) Education or educational services means any
24 class, course, or program of occupational training, instruction, or
25 study;

1 ~~(11)~~(12) Entity means any individual, company, firm,
2 society, group, association, partnership, limited liability company,
3 corporation, trust, or other person;

4 ~~(12)~~(13) Grant, with respect to educational credentials,
5 means award, sell, confer, bestow, or give;

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

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

16 (15) Out-of-state school means any private postsecondary
17 career school which has its place of instruction or its principal
18 location outside the boundaries of this state and which offers or
19 conducts courses of instruction or subjects on the premises of the
20 school, or provides ~~correspondence or home study lesson materials,~~
21 distance education, or offers or provides Nebraska students with
22 courses of instruction or subjects through activities engaged in or
23 conducted outside the boundaries of Nebraska;

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

1 (17) Private postsecondary career school means any
2 organization or business enterprise which is not specifically exempt
3 under section 85-1604 and which offers a course of study or
4 instruction for which tuition is charged, even though the
5 organization's or business enterprise's principal efforts may not be
6 exclusively educational in nature;

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

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

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

23 Sec. 11. Section 85-1604, Revised Statutes Supplement,
24 2013, is amended to read:

25 85-1604 The following education and schools are exempted

1 from the Private Postsecondary Career School Act:

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

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

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

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

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

16 (6) Public postsecondary schools established, operated,
17 and governed by this state or its political subdivisions or similar
18 entities in other states as determined by the department;

19 (7) Schools or organizations offering education or
20 instruction that is not part of a degree program leading to an
21 associate, a baccalaureate, a graduate, or a professional degree
22 which are licensed and regulated by agencies of this state other than
23 the department, except that such schools or organizations shall not
24 be exempt from the act with respect to agents' permits and the
25 Tuition Recovery Cash Fund;

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

5 (9) Any postsecondary institution offering or proposing
6 to offer courses or programs leading to a baccalaureate, graduate, or
7 professional degree, but whose offerings may include associate degree
8 programs, diplomas, and other certificates based on the award of
9 college credit, including any such institutions that were regulated
10 prior to May 5, 2011, as private postsecondary career schools
11 pursuant to the Private Postsecondary Career School Act; ~~and~~

12 (10) Entities exclusively offering short-term training;
13 and -

14 (11) Distance education programs offered by out-of-state
15 schools are authorized in accordance with an interstate reciprocity
16 agreement for the provision of postsecondary distance education
17 across state boundaries entered into and administered pursuant to
18 subdivisions (5) and (6) of section 85-2405.

19 Sec. 12. Section 85-2405, Revised Statutes Supplement,
20 2013, is amended to read:

21 85-2405 The commission has the following powers and
22 duties:

23 (1) To establish levels for recurrent authorizations to
24 operate based on institutional offerings;

25 (2) To receive, investigate as it may deem necessary, and

1 act upon applications for a recurrent authorization to operate and
2 applications to renew a recurrent authorization to operate;

3 (3) To establish reporting requirements by campus
4 location either through the federal Integrated Postsecondary
5 Education Data System, 20 U.S.C. 1094(a)(17), as such section existed
6 on January 1, 2011, and 34 C.F.R. 668.14(b)(19), as such regulation
7 existed on January 1, 2011, or directly to the commission for any
8 postsecondary institution which has an authorization to operate;

9 (4) To maintain a list of postsecondary institutions
10 which have authorization to operate, which list shall be made
11 available to the public;

12 (5) ~~To~~ After consultation with the State Department of
13 Education regarding the potential impact of such agreement and any
14 modifications thereto on Nebraska students who may participate in
15 distance education offered by out-of-state private postsecondary
16 career schools, to enter into interstate reciprocity agreements
17 ~~regarding for~~ the provision of postsecondary distance education, to
18 across state boundaries;

19 (6) To administer such agreements, interstate reciprocity
20 agreements entered into pursuant to subdivision (5) of this section
21 and to approve or disapprove, consistent with such agreements,
22 participation in such agreements by postsecondary institutions that
23 have their principal place of business in Nebraska and that choose to
24 participate in such agreements;

25 ~~(6)~~ (7) To establish a notification process when a

1 postsecondary institution which has an authorization to operate
2 changes its address or adds instructional sites within this state;

3 ~~(7)~~—(8) To conduct site visits of postsecondary
4 institutions to carry out the Postsecondary Institution Act;

5 ~~(8)~~—(9) To establish fees for applications for a
6 recurrent authorization to operate, applications to renew or modify a
7 recurrent authorization to operate, and applications to participate
8 or continue participation in an interstate postsecondary distance
9 education reciprocity agreement, which fees shall be not more than
10 the cost of reviewing and evaluating the applications;

11 ~~(9)~~—(10) To investigate any violations of the act by a
12 postsecondary institution; and

13 ~~(10)~~—(11) To adopt and promulgate rules, regulations, and
14 procedures to administer the act.

15 Sec. 13. Section 85-2407, Revised Statutes Cumulative
16 Supplement, 2012, is amended to read:

17 85-2407 The following are exempt from the Postsecondary
18 Institution Act:

19 (1) Any institution or organization which offers
20 education or instruction and which is licensed and regulated solely
21 by an agency of the federal government with respect to curriculum and
22 qualifications of instructional staff; or

23 (2) Any private postsecondary career school as defined in
24 the Private Postsecondary Career School Act, except for purposes of
25 interstate reciprocity agreements for the provision of postsecondary

1 distance education across state boundaries entered into and
2 administered pursuant to subdivisions (5) and (6) of section 85-2405.

3 Sec. 14. Original sections 1-116, 79-526, 79-535,
4 79-1102, and 79-1337, Reissue Revised Statutes of Nebraska, sections
5 79-319, 79-8,133, 79-8,137.01, and 85-2407, Revised Statutes
6 Cumulative Supplement, 2012, and sections 79-1118.01, 85-1603,
7 85-1604, and 85-2405, Revised Statutes Supplement, 2013, are
8 repealed.