

LEGISLATIVE BILL 69

Approved by the Governor February 28, 1991

Introduced by Chambers, 11

AN ACT relating to colleges and universities; to state intent; to prohibit certain acts by colleges and universities relating to certain financial aid; to provide duties for the Attorney General; to provide for remedies and applicability; and to provide an operative date.

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

Section 1. The Legislature hereby finds and declares that:

(1) Various federal and state student financial aid programs were created by federal and state law to aid financially needy students, not colleges and universities, and are not intended to discriminate on the basis of participation by a student in an intercollegiate athletic program or sport;

(2) Eligibility to receive aid under such programs is based on demonstrated need, and no student meeting such criteria should be deprived of such aid by a college or university solely on the basis of participation by such student in an intercollegiate athletic program or sport;

(3) No college or university, solely on the basis of participation in an intercollegiate athletic program or sport or as a condition to such participation, should compel a student to forego any financial aid to which he or she is entitled;

(4) No person should be denied or compelled to relinquish any benefit created by federal or state law as a condition to participation in an activity that is an integral part of the operation, occupation, or business of a college or university as an educational institution; and

(5) The Legislature has the obligation to enact laws that prohibit unjust discrimination of every variety and form and to provide redress for victims of such discrimination.

Sec. 2. No college or university shall adopt, promulgate, or enforce any rule or regulation that requires a student to forego, relinquish, waive, or surrender any financial aid made available to

financially needy students by federal or state law, solely on the basis of or as a condition to participation by such student in an intercollegiate athletic program or sport. This section is not violated if the rule or regulation pertaining to such financial aid applies equally and in the same manner to every student eligible to receive such financial aid irrespective of participation in an intercollegiate athletic program or sport.

Sec. 3. Any amounts withheld or obtained from a student by a college or university in violation of this act shall be turned over to such student in accordance with section 4 of this act.

Sec. 4. The Attorney General shall investigate and render a finding when a complaint alleging a violation of this act is brought by any person. Any college or university found by the Attorney General to have violated or to be in violation of this act shall cease such violation immediately and permanently upon being directed by the Attorney General to do so. The Attorney General shall issue such directive in writing within three days of making a finding that a violation has occurred or is occurring. The directive shall include notification that any amount withheld or obtained from any student in violation of this act shall be made available to such student for use in accord with the terms of the particular aid program not more than ten days after issuance of the directive. The Attorney General shall take whatever action is necessary to enforce the directive. The duty of the Attorney General under this section is not discretionary but mandatory.

Sec. 5. A college or university which subjects or causes to be subjected any student to a rule or regulation adopted, promulgated, or enforced in violation of section 2 of this act shall be liable to the aggrieved party in an action at law, a suit in equity, or any other proper proceeding for redress. In addition to any other relief granted, an aggrieved party shall be awarded costs and reasonable attorney's fees.

Sec. 6. The remedies provided in this act shall be cumulative and in addition to any other remedies provided by law.

Sec. 7. The provisions of this act shall have prospective application only and shall apply to any violation occurring after the operative date of this act.

Sec. 8. This act shall become operative on June 1, 1992.