

LEGISLATIVE BILL 344

Approved by the Governor May 22, 1975

Introduced by Kremer, 34

AN ACT relating to technical community colleges; to state legislative intent; to define terms; to provide for a locally-governed technical community college system as prescribed; to provide severability; to provide an operative date; to repeal sections 79-1436 to 79-1438.03, 79-1439, 79-1441 to 79-1445.13, 79-1445.15 to 79-1445.36, and Chapter 79, articles 16 and 26, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto; and to declare an emergency.

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

Section 1. The Legislature hereby declares that for a technical community college to be truly responsible to the people it serves, primary control of such colleges must be placed in the citizens within the local area so served. It is the intent and purpose of this act to create locally-governed and locally-supported technical community college areas with the major educational emphasis on occupational education. Each technical community college area is intended to be an independent, local, unique, and vital segment of higher education separate from both the established elementary and secondary school system and from other institutions of higher education, and not to be converted into four-year baccalaureate degree-granting institutions.

Sec. 2. As used in this act, unless the context otherwise requires:

(1) Technical community college shall mean an educational institution operating and offering programs pursuant to the provisions of this act;

(2) Technical community college area shall mean an area established by section 3 of this act;

(3) Board shall mean the Technical Community College Board of Governors for each technical community college area established by this act;

(4) Commission shall mean the Nebraska Coordinating Commission for Technical Community Colleges;

(5) A full-time equivalent student shall mean (a) a registered student who in a twelve-month period is enrolled in thirty semester credit hours or forty-five quarter credit hours of classroom or laboratory course work applicable to a degree, diploma, or certificate program, or (b) a registered undergraduate student who in a twelve-month period is enrolled in nine hundred contact hours of classroom or laboratory course work applicable to a degree, diploma, or certificate program. Avocational and recreational community service programs or courses shall not be included in determining full-time equivalent students or student enrollment; and

(6) Full-time equivalent student enrollment total shall mean the total of full-time equivalent students enrolled in a technical community college in any fiscal year.

Sec. 3. The state is hereby divided into six technical community college areas as follows:

(1) The Western Technical Community College Area shall consist of the following counties: Sioux, Daves, Sheridan, Box Butte, Scotts Bluff, Banner, Kimball, Morrill, Cheyenne, Garden, Deuel, Grant, and voting districts Merriam, Russell, King, Mother Lake, Cody, Barley, Gillaspie, Lackey, and Calf Creek of Cherry County;

(2) The Mid-Plains Technical Community College Area shall consist of the following counties: Cherry, except as provided in subdivision (1) of this section, Hooker, Thomas, Blaine, Loup, Arthur, McPherson, Logan, Custer, Keith, Lincoln, Perkins, Chase, Hayes, Frontier, Dundy, Hitchcock, and Red Willow;

(3) The Northeast Technical Community College Area shall consist of the following counties: Keya Paha, Brown, Rock, Boyd, Holt, Garfield, Wheeler, Knox, Cedar, Antelope, Pierce, Madison, Wayne, Stanton, Dixon, Dakota, Thurston, Burt, and Cuming, and North Oakland, South Oakland, Ashland, North Branch, Shell Creek, and Midland precincts in Boone County;

(4) The Central Technical Community College Area shall consist of the following counties: Valley, Greeley, Platte, Colfax, Sherman, Howard, Nance, Merrick, Polk, Butler, Dawson, Buffalo, Hall, Hamilton, Gosper, Phelps, Kearney, Adams, Clay, Furnas, Harlan, Franklin, Webster, and Nuckolls, and all of Boone County, except as provided in subdivision (3) of this section;

(5) The Southeast Technical Community College Area shall consist of the following counties: Saunders, Cass, York, Seward, Lancaster, Otoe, Fillmore, Saline, Thayer, Jefferson, Gage, Johnson, Nemaha, Pawnee, and Richardson; and

(6) The Metropolitan Technical Community College Area shall consist of the following counties: Dodge, Washington, Douglas, and Sarpy.

Sec. 4. Each technical community college area shall constitute a body corporate and as such may sue and be sued.

Sec. 5. Each technical community college area shall be governed by a board composed of eleven members. The governing boards shall be known as the Technical Community College Board of Governors for the specific area the board serves. The members of each technical community college area board existing prior to the operative date of this act shall serve as members of the boards created by this act until their successors are elected and qualified pursuant to section 11 of this act.

Sec. 6. Within thirty days after the operative date of this act, the various boards shall organize. At the organizational meeting, each board shall elect from among its members a chairman and a vice-chairman, each to serve for one year, and annually thereafter shall elect such officers. The board shall appoint a secretary and a treasurer and one person may hold both such offices. A majority of the members of the board shall constitute a quorum and no action shall be taken by less than a majority of the members present and voting.

Sec. 7. Each board shall transmit a report in writing to the commission before November 1 of each year, which report shall contain a summary of its proceedings during the preceding fiscal year and a detailed and itemized statement of all revenue.

Sec. 8. The officers and employees of a technical community college area authorized to handle funds shall furnish and maintain a corporate surety bond in an amount, form, and with sureties approved by the board. A copy of such bond shall be filed with the Secretary of State. The premium on such bond shall be paid by the technical community college.

Sec. 9. In addition to any other powers and duties imposed upon the board by this act, each board shall be charged with the following powers, duties, and responsibilities:

(1) To have general supervision, control, and operation of each technical community college within its jurisdiction;

(2) To develop and offer programs of vocational and technical education, academic courses which are supportive of the vocational and technical programs, and such other programs and courses as the needs of the area served may require. The board shall avoid unnecessary duplication of existing programs and courses in meeting the needs of the students and area;

(3) To employ, for a period to be fixed by the board, executive officers and members of the faculty and such other administrative officers and employees as may be necessary or appropriate and fix their salaries and duties;

(4) To construct, lease, purchase, purchase on contract, operate, equip, and maintain facilities and contract for services connected with the operation of the technical community college area as needs and interest demand;

(5) To cause an examination and comprehensive audit of the books, accounts, records and affairs, including full-time equivalent student enrollment total as defined in this act, to be made annually covering the most recently completed fiscal year. Such examination and audit shall be completed and filed with the Auditor of Public Accounts, the Department of Administrative Services, and the commission on or before August 15 of each year;

(6) To establish fees and charges for the facilities authorized by this act. Each board of a technical community college area may enter into agreements with owners of facilities to be used for housing regarding the management, operation, and government of such facilities and may employ necessary employees to govern, manage, and operate such facilities;

(7) To receive such gifts, grants, conveyances, and bequests of real and personal property from public or private sources as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the technical community college programs as specified by law. Each board may sell, lease, exchange, invest, or expend such gifts, grants, conveyances, and bequests or the proceeds, rents, profits, and income therefrom according to the terms and conditions thereof and adopt regulations governing the receipt and expenditure of such proceeds, rents, profits,

and income, except that acceptance of such gifts, grants, or conveyances shall not be conditioned on matching state or local funds;

(8) To prescribe the courses of study for any technical community college under its control, and publish such catalogs and bulletins as may be necessary;

(9) To grant to every student upon graduation or completion of a course of study a suitable diploma, associate degree, or certificate;

(10) To promulgate such rules and regulations and perform all other acts as the board may deem necessary or appropriate to the administration of the technical community college area. Such rules and regulations shall include but not be limited to rules and regulations relating to facilities, housing, scholarships, discipline, and pedestrian and vehicular traffic on property owned, operated, or maintained by the technical community college area;

(11) To employ, for a period to be fixed by the board, an executive officer for the technical community college area and, by written order filed in its office, delegate to such executive officer any of the powers and duties vested in or imposed upon it by this act. Such delegated powers and duties may be exercised in the name of the board;

(12) To acquire real property by eminent domain pursuant to Chapter 76, article 7, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto;

(13) To acquire real and personal property and sell, convey, or lease such property whenever the technical community college area will be benefited thereby. The sale, conveyance, or lease of any real estate owned by a technical community college area shall be effective only when authorized by an affirmative vote of at least two-thirds of all the members of the board;

(14) To enter into agreements for services, facilities, or equipment and for the presentation of courses for students when such agreements are deemed to be in the best interests of the education of the students involved;

(15) To invest, after proper consideration of the requirements for the availability of money, funds of the college in those types of securities set forth in subdivisions (1) to (10) of section 72-1246, Revised Statutes Supplement, 1974;

(16) To establish tuition rates for courses of instruction offered by each college within its area. Separate tuition rates shall be established for students who are nonresidents of the State of Nebraska;

(17) To establish a fiscal year for the area which conforms to the fiscal year of the state; and

(18) To exercise any other powers, duties, and responsibilities necessary to carry out the provisions of this act.

Sec. 10. After the operative date of this act, the boards shall assume responsibility of and serve as the coordinating body for the Fire Service Safety Program for the entire state. All funds made available for such program may be used by the boards for the purpose of carrying out their duties under this section.

Sec. 11. Each board shall establish five election districts as nearly equal in population as may be practicable within the area and shall transmit the appropriate information pertaining to such election districts to the Secretary of State and to the appropriate election officials within the area. Thereafter, two members of the board shall be elected from each election district, and one member shall be elected at large from the area. Board members shall be elected for four-year terms, except that at the first election of the board serving the Metropolitan Technical Community College Area six members, including the member elected at large from the area, shall be elected for two years and five members for four years. The initial board for the Metropolitan Technical Community College Area shall determine, at the time it establishes the election districts, the length of term for each member to be elected at the first election. Members shall be elected on a separate nonpolitical ballot as provided for in sections 32-535 and 32-537, Reissue Revised Statutes of Nebraska, 1943, and nominating papers shall be filed with the Secretary of State. No filing fee shall be required. No person shall be eligible to membership on the board who is an elected or appointed member of any other board relating to education.

Sec. 12. A vacancy on any board shall exist in the event of the death, disability, resignation, or removal from the area of any member. In the event of a vacancy from any of such causes or otherwise, such vacancy shall be filled by the remaining board members for the balance of the unexpired term. Any person so named to fill a vacancy shall have the same qualifications as his immediate predecessor. Such

appointment shall be made in writing and certified to the office of the Secretary of State. If, after an election, there shall through any cause whatsoever be a vacancy upon the ballot, such vacancy shall be filled by a petition candidate pursuant to section 32-537, Reissue Revised Statutes of Nebraska, 1943. An incumbent shall not be permitted to hold over the term, but such office shall automatically become vacant and an appointment shall be made within one calendar month to fill such vacancy for the ensuing term.

Sec. 13. Each board shall have the power to issue and sell revenue bonds and general obligation bonds for the purchase, construction, reconstruction, equipping, demolition, or alteration of capital assets and the acquisition of sites, rights-of-way, easements, improvements, or appurtenances and other facilities connected with the operation of the technical community colleges. Each board may establish in its budget a capital improvement and bond sinking fund. Such fund shall be used first for the retirement of bonds assumed by the board, then for the retirement of bonds issued pursuant to this section, and then for the purchasing, purchasing on contract, leasing, constructing, renovating, and improving of facilities necessary to carry out the provisions of this act. Revenue bonds issued shall be subject to all applicable provisions of sections 79-1438.04 to 79-1438.12, Reissue Revised Statutes of Nebraska, 1943. No general obligation bonds shall be issued without the approval by a majority vote of the qualified electors of the area voting in a general, primary, or special election called for such purpose, upon notice given by the members of the board at least twenty days prior to such election. No bonds issued under the provisions of this act shall be an obligation of the State of Nebraska and no state tax shall be levied to raise funds for the payment thereof or interest thereon.

Sec. 14. Each board may issue warrants in an amount necessary to finance the operating expenses of the technical community college area until the proceeds of the tax levy as provided in section 15 of this act are received. The amount of such warrants plus interest shall not exceed the amount of the money to be received from the property tax levy. Whenever such warrants are issued they shall be the general obligation of the technical community college area and the full faith and credit of the technical community college area shall be pledged to retire such warrants. In addition the board shall set aside from the proceeds of the property tax levied pursuant to this act an amount sufficient to pay the warrants and the interest thereon. Such warrants

shall be subject to registration as provided in Chapter 77, article 22, Reissue Revised Statutes of Nebraska, 1943.

Sec. 15. (1) On or before September 1 of each year, the board may certify to the county board of equalization of each county within the area a mill levy of not to exceed two mills, uniform throughout such area, for the purpose of supporting operating expenditures of the technical community college area.

(2) In addition to the levy provided in subsection (1) of this section, the board may also certify to the county board of equalization of each county within the area a mill levy of not to exceed one mill, uniform throughout such area, for the purpose of establishing a capital improvement fund, a bond sinking fund, or for the retirement of general obligation bonds. The power to levy such tax under this subsection shall not exist after June 30, 1980.

(3) The combined levy provided in subsections (1) and (2) of this section shall not exceed two and one half mills without prior approval by a majority vote of the qualified electors of the area voting in a primary, general, or special election called for such purpose, upon notice given by the members of the board at least twenty days prior to such election.

(4) Such tax shall be levied and assessed in the same manner as other property taxes and entered on the books of the county treasurer. The proceeds of such tax, as collected, shall be remitted to the treasurer of the board not less frequently than once each month.

Sec. 16. The Legislature, in an effort to promote quality postsecondary education and to avoid excessive taxation upon the taxable property of each area, may appropriate each year from such funds as may be available an amount for the aid and assistance of the technical community colleges. Such funds so appropriated by the Legislature shall be distributed by the Department of Administrative Services in four payments on September 1, December 1, March 1, and June 1 of each year. Such funds shall be distributed to the technical community colleges in the same proportion as the full-time equivalent student enrollment total for each college for the immediately preceding fiscal year is to the full-time equivalent enrollment total of all technical community colleges combined for such fiscal year.

Sec. 17. A technical community college may estimate its full-time equivalent student enrollment

total for the 1975-76 fiscal year and certify such estimate to the Auditor of Public Accounts, the Department of Administrative Services, and the commission on or before August 15, 1975. Such certified estimate shall be used for the purpose of determining the ratio for distribution of funds to the technical community colleges set forth in section 16 of this act. Any college which has estimated its full-time equivalent student enrollment total shall, on or before May 1, 1976, certify to the Auditor of Public Accounts, the Department of Administrative Services, and the commission its actual full-time equivalent student enrollment total for July 1, 1975 to April 15, 1976. If such certification discloses that the estimated full-time equivalent student enrollment total exceeds the actual full-time equivalent student enrollment total by more than five per cent, the Department of Administrative Services shall redetermine the original distribution of funds ratio set forth in section 16 of this act based on the actual full-time equivalent student enrollment total. The Department of Administrative Services shall then make the necessary adjustment in the June 1, 1976 payment to cause each technical community college to receive a total distribution of funds for the 1975-76 fiscal year based upon the readjusted ratio.

Sec. 18. The State Treasurer shall pay out of the proper funds all warrants for state funds appropriated pursuant to section 16 of this act. Such warrants shall be drawn by the Director of Administrative Services on vouchers presented by the Budget Division of the Department of Administrative Services or as otherwise provided by law.

Sec. 19. In order to facilitate the sharing of expertise and resources among the technical community college areas and avoid possible duplications and inefficiencies in educational programs and services, there is hereby created the Nebraska Coordinating Commission for Technical Community Colleges. The commission shall consist of twelve members, one of whom shall represent (1) each technical community college area, (2) the University of Nebraska, (3) the state colleges, (4) private institutions of higher education, (5) public elementary and secondary education schools, (6) private elementary and secondary education schools, and (7) the Commissioner of Education. The Governor shall appoint members to the commission within sixty days after the operative date of this act. Members of the commission shall serve for terms of four years and may be reappointed and any vacancy shall be filled by appointment for the balance of the unexpired term.

Sec. 20. The commission shall have general advisory supervision over the technical community colleges. The commission shall be charged with the following powers, duties, and responsibilities:

(1) To receive federal funds made available for the assistance of the technical community colleges according to the provisions of the acts of Congress making such funds available and, to the extent possible under applicable federal law, insure an equitable division of such funds among the six technical community college areas based on the needs of the areas;

(2) To make recommendations to the boards for purposes of coordinating the technical community college areas and request and receive reports from the various state agencies and institutions on matters within the jurisdiction of the commission;

(3) To serve as the coordinating agency and advisory commission for the mutual exchange of ideas and information between technical community college areas, state and local governmental agencies, private organizations, and individuals; and

(4) To provide guidance in the formulation of needs and program development, avoiding unnecessary duplication of programs and facilities, and to promote the efficiency of the technical community college areas.

Sec. 21. The commission shall appoint such personnel as may be necessary to properly discharge the functions of the commission. Such personnel shall serve at the pleasure of the commission.

The commission shall fix the salary and shall provide reimbursement for all traveling and other expenses incurred by the personnel of the commission in the discharge of their official duties. All employees of the commission shall be exempt from the provisions of Chapter 81, article 13, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto.

Sec. 22. The commission shall, within a reasonable time, organize and adopt rules and regulations for its administration. At such organizational meeting, it shall elect from among its members a chairman and vice-chairman, each to serve for one year, and annually thereafter shall elect such officers. The commission shall at its initial meeting fix a date and place for its regular meetings. A majority of the members shall constitute a quorum and no meeting shall be held with less than a quorum present and no action shall be taken

by less than a majority of members present and voting.

Sec. 23. The commission shall transmit a report in writing to the Governor before December 31 of each year, which report shall contain a summary of its proceedings during the preceding fiscal year, a detailed and itemized statement of all revenue and all expenditures made by or on behalf of the commission, such other information as it may deem necessary or useful, and any other additional information which may be requested by the Legislature or the Governor. The fiscal year of the commission shall conform to the fiscal year of the state.

Sec. 24. The members of the commission shall receive no compensation for their services but shall be reimbursed for any actual and necessary expenses incurred in carrying out their duties on the same basis and subject to the same conditions as full-time state employees. The Legislature shall appropriate from the General Fund such money as may be necessary for the commission to carry out its duties pursuant to this act.

Sec. 25. The commission shall provide uniform retirement benefits for present and future employees of such commission and shall recommend a uniform retirement plan for adoption by each board for present and future employees of such board subject to the following: (1) The cost of such retirement benefits shall be funded in accordance with sound actuarial principles with the necessary contributions for both past service and future service being treated in the budgets in the same way as any other operating expenses; (2) the maximum contribution from the area served under such retirement plan shall not exceed the sum of (a) six per cent of each employee's salary or wage earnings for any calendar year before any agreement for reduction of salary or wage earnings, and (b) pursuant to an agreement for reduction of salary or wage earnings, the amount of the reduction of salary or wage earnings; (3) each employee's contribution shall at least equal the contribution from the area served under subdivision (2) (a) of this section to any such retirement fund but, in lieu of making such contribution, each such employee may enter into an agreement for reduction of salary or wages for the purchase by the commission or any board of an annuity contract for such employee under the provisions of the Technical Amendments Act of 1958 of the Internal Revenue Code, as amended, but the amount of the reduction of salary or wages allowable under this subdivision may not include credit for service prior to July 1, 1973; and (4) the retirement benefits of any employee for service prior to the effective date of any retirement plan established

under the provisions of this section shall be those provided under the retirement plan then in force, which benefits shall not be abridged.

Sec. 26. The commission shall provide uniform insurance benefits for present and future employees of the commission and shall recommend a uniform insurance plan for adoption by each board including group life insurance, group hospital medical insurance, and group long-term disability income insurance. Such coverages may be funded in whole or in part with employee contributions.

Sec. 27. All property rights, contracts, obligations, and choses in action of any kind held by or belonging to a technical community college area or area board existing prior to the operative date of this act shall be transferred to, assumed, and carried out by the appropriate technical community college area or board created by this act.

Sec. 28. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 29. This act shall become operative on July 1, 1975.

Sec. 30. That sections 79-1436 to 79-1438.03, 79-1439, 79-1441 to 79-1445.13, 79-1445.15 to 79-1445.36, and Chapter 79, articles 16 and 26, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto, are repealed.

Sec. 31. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.