

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 637

Introduced by Adams, 24.

Read first time January 19, 2011

Committee: Education

A BILL

1 FOR AN ACT relating to the Coordinating Commission for Postsecondary
2 Education; to amend sections 77-2704.12, 85-1604,
3 85-1620, and 85-1643, Reissue Revised Statutes of
4 Nebraska, and section 85-1412, Revised Statutes
5 Cumulative Supplement, 2010; to adopt the Postsecondary
6 Institution Act; to eliminate and replace provisions and
7 penalties relating to the authorization of out-of-state
8 institutions of higher education and private colleges; to
9 add and eliminate duties for the commission; to change
10 provisions relating to the Private Postsecondary Career
11 School Act; to harmonize provisions; to provide an
12 operative date; to repeal the original sections; and to
13 outright repeal sections 85-1101, 85-1102, 85-1103,
14 85-1103.01, 85-1103.02, 85-1104, 85-1105, 85-1106,
15 85-1107, 85-1108, 85-1109, 85-1110, 85-1110.01, and
16 85-1111, Reissue Revised Statutes of Nebraska.

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

1 Section 1. Sections 1 to 25 of this act shall be known
2 and may be cited as the Postsecondary Institution Act.

3 Sec. 2. The purpose of the Postsecondary Institution Act
4 is to ensure that minimum standards of operation are met by private
5 or out-of-state postsecondary institutions operating in Nebraska. In
6 addition, the act provides for adequate consumer protection for
7 Nebraska residents who enroll in higher education programs.

8 Sec. 3. For purposes of the Postsecondary Institution
9 Act:

10 (1) Authorization to operate means approval by the
11 commission to operate a postsecondary institution in this state;

12 (2) Commission means the Coordinating Commission for
13 Postsecondary Education;

14 (3) Department means the State Department of Education;

15 (4)(a) Establishing a physical presence means:

16 (i) Offering a course for college credit or a degree
17 program in this state that leads to an associate, baccalaureate,
18 graduate, or professional degree, including:

19 (A) Establishing a physical location in the state where a
20 student may receive synchronous or asynchronous instruction; or

21 (B) Offering a course or program that requires students
22 to physically meet in one location for instructional purposes more
23 than once during the course term; or

24 (ii) Establishing an administrative office in the state,
25 including:

1 (A) Maintaining an administrative office in the state for
2 purposes of enrolling students, providing information to students
3 about the institution, or providing student support services;

4 (B) Providing office space to staff, whether
5 instructional or noninstructional staff; or

6 (C) Establishing a mailing address in the state.

7 (b) Physical presence does not include: Course offerings
8 in the nature of a short course or seminar if instruction for the
9 short course or seminar takes no more than twenty classroom hours;
10 course offerings on a military installation solely for military
11 personnel or civilians employed on such installation; or an
12 educational experience arranged for an individual student, such as a
13 clinical, practicum, residency, or internship;

14 (5) Executive director means the executive director of
15 the commission or his or her designee;

16 (6) Out-of-state public institution means any public
17 institution established, operated, and governed by another state or
18 its political subdivisions;

19 (7) Postsecondary institution means any private
20 postsecondary institution or out-of-state public postsecondary
21 institution exempt from the Private Postsecondary Career School Act;
22 and

23 (8) Private postsecondary institution means any nonpublic
24 postsecondary institution, including any for-profit or nonprofit
25 institution that provides postsecondary education.

1 Sec. 4. The following are exempted from the Postsecondary
2 Institution Act:

3 (1) Any private postsecondary institution that has
4 offered one or more four-year undergraduate programs for at least
5 twenty academic years under its current ownership in compliance with
6 state and federal law;

7 (2) Any public postsecondary institution established,
8 operated, and governed by this state or its political subdivisions;

9 (3) Any institution or organization which offers
10 education or instruction and which is licensed and regulated solely
11 by an agency of the federal government with respect to curriculum and
12 qualifications of instructional staff; or

13 (4) Any private postsecondary career school as defined in
14 the Private Postsecondary Career School Act.

15 Sec. 5. No postsecondary institution shall operate in the
16 State of Nebraska by establishing a physical presence in the state
17 until it has received authorization to operate by the commission.

18 Sec. 6. No postsecondary institution authorized to
19 operate under the Postsecondary Institution Act shall charge tuition
20 or fees for more than one academic term or require a student to sign
21 loan documents for more than one academic term.

22 Sec. 7. Any postsecondary institution authorized by the
23 commission as an out-of-state institution of higher education prior
24 to the operative date of this act shall apply for authorization to
25 operate under the Postsecondary Institution Act on or before December

1 31, 2011. If the institution fails to apply on or before such date,
2 the original authorization to operate shall terminate. An application
3 for authorization to operate under this section shall be deemed an
4 application for renewal of the institution's original authorization
5 to operate for purposes of the act.

6 Sec. 8. (1) Any postsecondary institution not previously
7 authorized to operate by the commission or other state agency prior
8 to the operative date of this act but would be required to obtain
9 authorization to operate under the Postsecondary Institution Act
10 shall apply for such authorization no more than ninety days after the
11 operative date of this act.

12 (2) Any postsecondary institution authorized to operate
13 by the commission or other state agency prior to the operative date
14 of this act which is not an institution described in section 7 of
15 this act shall apply for authorization to operate under the
16 Postsecondary Institution Act according to the following schedule:

17 (a) Any private postsecondary institution that is
18 regionally accredited and was originally authorized by the commission
19 as an instate institution prior to the operative date of this act
20 shall apply no later than one year after the institution's last
21 required annual report;

22 (b) Any private postsecondary institution that is not
23 regionally accredited and was originally authorized by the commission
24 as an instate institution prior to the operative date of this act
25 shall apply on or before July 1, 2012; and

1 (c) Any postsecondary institution subject to the act but
2 not described in subdivision (a) or (b) of this section shall apply
3 on or before December 31, 2011.

4 (3) An application for authorization to operate under
5 this section shall be deemed an application for renewal of the
6 institution's original authorization to operate for purposes of the
7 Postsecondary Institution Act. If an institution fails to apply for
8 authorization to operate by the date specified in this section, the
9 original authorization to operate shall terminate on such date.

10 Sec. 9. The commission shall administer the Postsecondary
11 Institution Act. To fulfill the purposes of the act, the commission
12 may request from any department, division, board, bureau, commission,
13 or other agency of the state, and such entity shall provide, such
14 information as the commission deems necessary to exercise its powers
15 and perform its duties under the act.

16 Sec. 10. The commission has the following powers and
17 duties:

18 (1) To establish minimum standards pursuant to section 11
19 of this act, including quality of education, ethical and business
20 practices, health and safety standards, and fiscal responsibility
21 standards;

22 (2) To establish levels of authorization for
23 postsecondary institutions that seek to operate in the state;

24 (3) To receive, investigate as it may deem necessary, and
25 act upon applications to operate a postsecondary institution in the

1 state and applications to renew authorization to operate in the
2 state;

3 (4) To establish reporting requirements for any
4 postsecondary institution authorized to operate in the state;

5 (5) To maintain a list of postsecondary institutions
6 authorized to operate in the state, which shall be made available to
7 the public;

8 (6) To establish a notification process that may include
9 a site visit when an authorized postsecondary institution changes its
10 address or adds instructional sites within the state;

11 (7) To establish fees for applications for authorization
12 to operate and applications to renew authorization to operate, which
13 shall be not more than the cost of administration of the
14 Postsecondary Institution Act;

15 (8) To investigate any violations of the act by a
16 postsecondary institution; and

17 (9) To adopt and promulgate rules, regulations, and
18 procedures to administer the act.

19 Sec. 11. The commission shall adopt and promulgate rules
20 and regulations to establish minimum standards according to which a
21 postsecondary institution shall be authorized to operate within the
22 state. An institution shall demonstrate that it can be maintained and
23 operated in accordance with such standards. The standards shall
24 include, but not be limited to:

25 (1) The financial soundness of the institution and its

1 capability to fulfill its proposed commitments;

2 (2) The quality and adequacy of teaching faculty, library
3 services, and support services;

4 (3) The quality of the programs offered, including
5 courses, programs of instruction, and degrees;

6 (4) The specific locations where programs will be offered
7 or planned locations and a demonstration that facilities are adequate
8 at the locations for the programs to be offered;

9 (5) Adequate assurances regarding transfer of credits
10 earned in the program to the main campus of such institution and
11 clear and accurate representations about the transferability of
12 credit to other institutions located in Nebraska and elsewhere;

13 (6) Whether such institution and, when appropriate, the
14 program, are fully accredited, or seeking accreditation, by an
15 accrediting body recognized by the United States Department of
16 Education;

17 (7) The institution's tuition refund policy, if it does
18 not participate in federal Title IV financial aid programs; and

19 (8) Any other standards deemed necessary by the
20 commission.

21 Sec. 12. (1) Except as provided in subsection (2) of this
22 section, after review of an application from a postsecondary
23 institution under the Postsecondary Institution Act, including any
24 further information submitted by the applicant as required by the
25 commission and any investigation of the applicant as the commission

1 may deem necessary or appropriate, the commission shall grant or deny
2 the application for authorization to operate. A grant of
3 authorization to operate may be on such terms and conditions as the
4 commission may specify. Such authorization shall not exceed a five-
5 year period.

6 (2) If an applicant seeks to establish in the state a new
7 campus, as defined by the commission in rules and regulations, the
8 commission shall hold a public hearing. The hearing shall be
9 scheduled following a completed review of the application for
10 authorization to operate and conducted according to the
11 Administrative Procedure Act. After the public hearing, the
12 commission shall grant or deny the application for authorization to
13 operate. A grant of authorization to operate may be on such terms and
14 conditions as the commission may specify. Such authorization shall
15 not exceed a five-year period.

16 Sec. 13. An authorization to operate under the
17 Postsecondary Institution Act shall be in a form approved by the
18 commission and shall state in a clear and conspicuous manner at least
19 the following information:

20 (1) The date of issuance, effective date, and term of the
21 authorization to operate;

22 (2) The full and correct name and address of the
23 institution authorized to operate;

24 (3) The authority for authorization to operate and the
25 conditions thereof; and

1 (4) Any limitation of authorization to operate as deemed
2 necessary by the commission.

3 Sec. 14. Any postsecondary institution authorized to
4 operate under the Postsecondary Institution Act which ceases to meet
5 any of the requirements of the act, any rules or regulations adopted
6 and promulgated under the act, or any terms or conditions specified
7 by the commission for authorization to operate under the act shall be
8 notified in writing of any such specific deficiency by certified
9 mail. A hearing shall be scheduled requiring the institution to show
10 cause why the authorization to operate should not be suspended or
11 revoked. The hearing shall be held according to the Administrative
12 Procedure Act. After the hearing, if the commission determines that
13 any requirements, rules or regulations, or terms and conditions have
14 been violated, the commission may suspend or revoke the authorization
15 to operate or may require action as a condition of continued
16 authorization to operate.

17 Sec. 15. The authorization to operate under the
18 Postsecondary Institution Act shall be issued to the owner or
19 governing body of the postsecondary institution and shall be
20 nontransferable. If there is a change in ownership, as defined by the
21 commission in rules and regulations, the new owner or governing body
22 shall, within thirty days after the change of ownership, apply for a
23 new authorization to operate under the act, and if the institution
24 fails to apply within such time period, the original authorization to
25 operate shall terminate. An application for a new authorization to

1 operate may be deemed an application for renewal of the institution's
2 original authorization to operate for purposes of the act.
3 Verification that all student records are transferred intact and in
4 good condition to the new owner shall accompany the application.

5 Sec. 16. A postsecondary institution shall be required to
6 apply to renew its authorization to continue operating under the
7 Postsecondary Institution Act. At least ninety days prior to the
8 expiration of an authorization to operate, the institution shall
9 complete and file with the commission an application form for renewal
10 of its authorization to operate. Financial stability information
11 shall accompany the application. The renewal application shall be
12 reviewed and acted upon by the commission as provided for an initial
13 application prior to the expiration of the institution's
14 authorization to operate, except that no public hearing shall be
15 required for renewal.

16 Sec. 17. Any institution denied an authorization to
17 operate a private postsecondary institution by the commission shall
18 have the right to a hearing and a review of such decision by the
19 commission as provided in sections 18 and 19 of this act.

20 Sec. 18. If, upon written notification of a denial
21 described in section 17 of this act, the aggrieved party desires a
22 hearing and review, such party shall notify the commission in writing
23 within ten business days after receipt of notice by the commission.
24 If the aggrieved party does not notify the commission pursuant to
25 this section, the action shall be deemed final. Upon receipt of such

1 notice from the aggrieved party, the commission shall fix the time
2 and place for a hearing and shall notify the aggrieved party of such
3 by certified mail. The hearing shall be conducted according to the
4 Administrative Procedure Act.

5 Sec. 19. A decision of the commission following a hearing
6 held under the Postsecondary Institution Act shall be deemed final
7 subject to the right of judicial review provided in the
8 Administrative Procedure Act. All matters presented at any such
9 hearing shall be acted upon promptly by the commission, and the
10 commission shall notify all parties in writing of its decision, which
11 shall include a statement of findings and conclusions upon all
12 material issues of fact, law, or discretion presented at the hearing
13 and the appropriate rule, order, sanction, relief, or denial thereof.

14 Sec. 20. Any person claiming damage or loss as a result
15 of any act or practice by a postsecondary institution which is a
16 violation of the Postsecondary Institution Act or of the rules and
17 regulations adopted and promulgated under the act may file with the
18 commission a complaint against such institution. The complaint shall
19 set forth the alleged violation and shall contain such other
20 information as may be required by the commission. A complaint may be
21 filed with the commission by the executive director or the Attorney
22 General.

23 Sec. 21. The commission may consider a complaint filed
24 under section 20 of this act after ten days' written notice by
25 certified mail, return receipt requested, to such institution, giving

1 notice of a time and place for a hearing on such complaint. Such
2 hearing shall be conducted in accordance with the Administrative
3 Procedure Act.

4 Sec. 22. If, upon all evidence at the hearing, the
5 commission finds that a postsecondary institution has engaged in or
6 is engaging in any act or practice which violates the Postsecondary
7 Institution Act or the rules and regulations adopted and promulgated
8 under the act, the commission shall issue and cause to be served upon
9 such institution an order requiring such institution to cease and
10 desist from such act or practice. The commission may also, as
11 appropriate, based on its own investigation or the evidence adduced
12 at such hearing or both, commence an action to revoke an
13 institution's authorization to operate.

14 Sec. 23. Any person aggrieved or adversely affected by
15 any final commission action may appeal such action in accordance with
16 the Administrative Procedure Act.

17 Sec. 24. The Attorney General or the county attorney of
18 the county in which a postsecondary institution is located, at the
19 request of the commission or on his or her own accord, may bring any
20 appropriate action or proceeding in any court of competent
21 jurisdiction to enforce the Postsecondary Institution Act.

22 Sec. 25. If it appears to the commission that any entity
23 is or has been violating the Postsecondary Institution Act or any of
24 the rules, regulations, or orders of the commission, the commission
25 may file a petition for injunction in the name of the commission in

1 any court of competent jurisdiction in this state against such entity
2 for the purpose of enjoining such violation or for an order directing
3 compliance with the act and any rules, regulations, and orders. The
4 commission shall not be required to allege or prove that there is no
5 adequate remedy at law. The right of injunction provided in this
6 section shall be in addition to any other legal remedy which the
7 commission may possess and shall be in addition to any right of
8 criminal prosecution provided by law. The commission shall not obtain
9 a temporary restraining order without notice to the entity affected.
10 The pendency of commission action with respect to alleged violations
11 shall not operate as a bar to an action for injunctive relief
12 pursuant to this section.

13 Sec. 26. Section 77-2704.12, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 77-2704.12 (1) Sales and use taxes shall not be imposed
16 on the gross receipts from the sale, lease, or rental of and the
17 storage, use, or other consumption in this state of purchases by (a)
18 any nonprofit organization created exclusively for religious
19 purposes, (b) any nonprofit organization providing services
20 exclusively to the blind, (c) any nonprofit private educational
21 institution established under sections 79-1601 to 79-1607, (d) any
22 nonprofit private college or university established under sections
23 ~~85-1101 to 85-1111~~, postsecondary institution authorized to operate
24 under the Postsecondary Institution Act, (e) any nonprofit (i)
25 hospital, (ii) health clinic when two or more hospitals or the parent

1 corporations of the hospitals own or control the health clinic for
2 the purpose of reducing the cost of health services or when the
3 health clinic receives federal funds through the United States Public
4 Health Service for the purpose of serving populations that are
5 medically underserved, (iii) skilled nursing facility, (iv)
6 intermediate care facility, (v) assisted-living facility, (vi)
7 intermediate care facility for the mentally retarded, (vii) nursing
8 facility, (viii) home health agency, (ix) hospice or hospice service,
9 or (x) respite care service licensed under the Health Care Facility
10 Licensure Act, (f) any nonprofit licensed child-caring agency, (g)
11 any nonprofit licensed child placement agency, or (h) any nonprofit
12 organization certified by the Department of Health and Human Services
13 to provide community-based services for persons with developmental
14 disabilities.

15 (2) Any organization listed in subsection (1) of this
16 section shall apply for an exemption on forms provided by the Tax
17 Commissioner. The application shall be approved and a numbered
18 certificate of exemption received by the applicant organization in
19 order to be exempt from the sales and use tax.

20 (3) The appointment of purchasing agents shall be
21 recognized for the purpose of altering the status of the construction
22 contractor as the ultimate consumer of building materials which are
23 physically annexed to the structure and which subsequently belong to
24 the owner of the organization or institution. The appointment of
25 purchasing agents shall be in writing and occur prior to having any

1 building materials annexed to real estate in the construction,
2 improvement, or repair. The contractor who has been appointed as a
3 purchasing agent may apply for a refund of or use as a credit against
4 a future use tax liability the tax paid on inventory items annexed to
5 real estate in the construction, improvement, or repair of a project
6 for a licensed not-for-profit institution.

7 (4) Any organization listed in subsection (1) of this
8 section which enters into a contract of construction, improvement, or
9 repair upon property annexed to real estate without first issuing a
10 purchasing agent authorization to a contractor or repairperson prior
11 to the building materials being annexed to real estate in the project
12 may apply to the Tax Commissioner for a refund of any sales and use
13 tax paid by the contractor or repairperson on the building materials
14 physically annexed to real estate in the construction, improvement,
15 or repair.

16 (5) Any person purchasing, storing, using, or otherwise
17 consuming building materials in the performance of any construction,
18 improvement, or repair by or for any institution enumerated in
19 subsection (1) of this section which is licensed upon completion
20 although not licensed at the time of construction or improvement,
21 which building materials are annexed to real estate and which
22 subsequently belong to the owner of the institution, shall pay any
23 applicable sales or use tax thereon. Upon becoming licensed and
24 receiving a numbered certificate of exemption, the institution
25 organized not for profit shall be entitled to a refund of the amount

1 of taxes so paid in the performance of such construction,
2 improvement, or repair and shall submit whatever evidence is required
3 by the Tax Commissioner sufficient to establish the total sales and
4 use tax paid upon the building materials physically annexed to real
5 estate in the construction, improvement, or repair.

6 Sec. 27. Section 85-1412, Revised Statutes Cumulative
7 Supplement, 2010, is amended to read:

8 85-1412 The commission shall have the following
9 additional powers and duties:

10 (1) Conduct surveys and studies as may be necessary to
11 undertake the coordination function of the commission pursuant to
12 section 85-1403 and request information from governing boards and
13 appropriate administrators of public institutions and other
14 governmental agencies for research projects. All public institutions
15 and governmental agencies receiving state funds shall comply with
16 reasonable requests for information under this subdivision. Public
17 institutions may comply with such requests pursuant to section
18 85-1417;

19 (2) Recommend to the Legislature and the Governor
20 legislation it deems necessary or appropriate to improve
21 postsecondary education in Nebraska and any other legislation it
22 deems appropriate to change the role and mission provisions in
23 sections 85-917 to 85-966.01;

24 (3) Establish any advisory committees as may be necessary
25 to undertake the coordination function of the commission pursuant to

1 section 85-1403 or to solicit input from affected parties such as
2 students, faculty, governing boards, administrators of the public
3 institutions, administrators of the private nonprofit institutions of
4 postsecondary education and proprietary institutions in the state,
5 and community and business leaders regarding the coordination
6 function of the commission;

7 (4) Participate in or designate an employee or employees
8 to participate in any committee which may be created to prepare a
9 coordinated plan for the delivery of educational programs and
10 services in Nebraska through the telecommunications system;

11 (5) Seek a close liaison with the State Board of
12 Education and the State Department of Education in recognition of the
13 need for close coordination of activities between elementary and
14 secondary education and postsecondary education;

15 (6) Administer the Integrated Postsecondary Education
16 Data System or other information system or systems to provide the
17 commission with timely, comprehensive, and meaningful information
18 pertinent to the exercise of its duties. The information system shall
19 be designed to provide comparable data on each public institution.
20 The commission shall also administer the uniform information system
21 prescribed in sections 85-1421 to 85-1427 known as the Nebraska
22 Educational Data System. Public institutions shall supply the
23 appropriate data for the information system or systems required by
24 the commission;

25 (7) Administer the Access College Early Scholarship

1 Program Act, ~~and~~ the Nebraska Opportunity Grant Act, and the
2 Postsecondary Institution Act;

3 (8) Accept and administer loans, grants, and programs
4 from the federal or state government and from other sources, public
5 and private, for carrying out any of its functions, including the
6 administration of privately endowed scholarship programs. Such loans
7 and grants shall not be expended for any other purposes than those
8 for which the loans and grants were provided. The commission shall
9 determine eligibility for such loans, grants, and programs, and such
10 loans and grants shall not be expended unless approved by the
11 Governor;

12 ~~(9) Consistent with section 85-1620, approve, in a timely~~
13 ~~manner, new baccalaureate degree programs to be offered at private~~
14 ~~postsecondary career schools as defined in section 85-1603. The~~
15 ~~commission may charge a reasonable fee based on its administrative~~
16 ~~costs for authorizations pursuant to this subdivision and section~~
17 ~~85-1620. The commission shall report such action to the Commissioner~~
18 ~~of Education;~~

19 ~~(10) Pursuant to sections 85-1101 to 85-1104, authorize~~
20 ~~out of state institutions of higher or postsecondary education to~~
21 ~~offer courses or degree programs in this state;~~

22 ~~(11) Pursuant to sections 85-1105 to 85-1111, approve or~~
23 ~~disapprove petitions to establish new private colleges in this state;~~

24 ~~(12)-(9) On or before December 1, 2000, and on or before~~
25 ~~December 1 every two years thereafter, of each even-numbered year,~~

1 submit to the Legislature and the Governor a report of its objectives
2 and activities and any new private colleges in Nebraska and the
3 implementation of any recommendations of the commission for the
4 preceding two calendar years;

5 ~~(13)~~(10) Provide staff support for interstate compacts
6 on postsecondary education; and

7 ~~(14)~~(11) Request inclusion of the commission in any
8 existing grant review process and information system. ; and

9 ~~(15) Facilitate a study that explores the following~~
10 ~~issues related to the Nebraska community college system:~~

11 ~~(a) The need for changes to the statutory role and~~
12 ~~mission of Nebraska community colleges;~~

13 ~~(b) Changes in the weighting of courses that may be~~
14 ~~necessary for reimbursable educational units to properly reflect the~~
15 ~~role and mission of Nebraska community colleges and the cost of~~
16 ~~providing such courses;~~

17 ~~(c) Powers, duties, and mission of the Nebraska Community~~
18 ~~College Association or its successor and whether membership in such~~
19 ~~an association should be required;~~

20 ~~(d) Consequences for failing to satisfy current community~~
21 ~~college association membership requirements contained in section~~
22 ~~85-1502; and~~

23 ~~(e) State coordination of community colleges in the~~
24 ~~absence of a community college association or membership therein.~~

25 The commission shall include and facilitate discussion

1 ~~among the state's community colleges in the completion of such study.~~
2 ~~Each community college shall participate in good faith with the~~
3 ~~conduct of such study. The commission shall report its findings to~~
4 ~~the Legislature on or before December 15, 2009.~~

5 Sec. 28. Section 85-1604, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 85-1604 The following education and schools are exempted
8 from the Private Postsecondary Career School Act:

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

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

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

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

19 (5) Educational programs offered by a charitable
20 institution, organization, or agency as long as such education or
21 training is not advertised or promoted as leading toward occupational
22 objectives;

23 (6) Public postsecondary schools established, operated,
24 and governed by this state or its political subdivisions;

25 (7) ~~Except as provided in subdivision (9) of this~~

1 ~~section, schools~~ Schools or organizations offering education or
2 instruction that is not part of a degree program leading to an
3 associate, a baccalaureate, graduate, or professional degree which
4 are licensed and regulated by agencies of this state other than the
5 department, ~~as of September 2, 1977,~~ except that such schools or
6 organizations shall not be exempt from the act with respect to
7 agents' permits and the Tuition Recovery Cash Fund;

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

12 ~~(9) Not for profit private colleges, universities, and~~
13 ~~entities (a) which awarded baccalaureate or higher degrees prior to~~
14 ~~May 27, 2003, which maintain and operate educational programs for~~
15 ~~which credit is given, and which are in compliance with sections~~
16 ~~85-1105 to 85-1111 or (b) which award baccalaureate or higher~~
17 ~~degrees, which maintain and operate educational programs for which~~
18 ~~credit is given, which are in compliance with sections 85-1105 to~~
19 ~~85-1111, and which are regionally accredited;~~

20 ~~(10) For profit colleges, universities, and entities~~
21 ~~which award baccalaureate or higher degrees, which are in compliance~~
22 ~~with sections 85-1105 to 85-1111, and which are regionally~~
23 ~~accredited;~~

24 ~~(11) Institutions which have previously been regulated as~~
25 ~~private postsecondary career schools pursuant to the Private~~

1 ~~Postsecondary Career School Act, which have become regionally~~
2 ~~accredited, and which have been approved by the commission to offer~~
3 ~~baccalaureate degrees or higher pursuant to sections 85-1105 to~~
4 ~~85-1111. Institutions which have previously been regulated as private~~
5 ~~postsecondary career schools and which have been approved by the~~
6 ~~commission to offer baccalaureate degrees pursuant to sections~~
7 ~~85-1105 to 85-1111 but which have not become regionally accredited~~
8 ~~shall remain under the jurisdiction of the State Department of~~
9 ~~Education and subject to the Private Postsecondary Career School Act;~~
10 and

11 (9) Any postsecondary institution offering or proposing
12 to offer courses or programs leading to a baccalaureate, graduate, or
13 professional degree, but whose offerings may include associate degree
14 programs, diplomas, and other certificates based on the award of
15 college credit, including any institutions regulated before the
16 operative date of this act as private postsecondary career schools
17 pursuant to the Private Postsecondary Career School Act; and

18 ~~(12)~~(10) Entities exclusively offering short-term
19 training.

20 Sec. 29. Section 85-1620, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 85-1620 ~~(1)~~A school which has been accredited pursuant
23 to section 85-1619 may apply to the department for authority to award
24 associate degrees. Upon determining that the quality of the courses
25 of instruction at the applicant school meets the standards

1 established in the department's rules and regulations, the
2 commissioner may grant the applicant the authority to award an
3 associate degree and shall issue a certificate setting forth the
4 programs for which the associate degree may be awarded. Such
5 authorization shall continue so long as the school remains
6 accredited.

7 ~~(2) A school which has been accredited pursuant to
8 section 85-1619 may apply to the department for authority to award
9 baccalaureate degrees. The department shall refer such degree
10 applications to the commission for its review and approval. Within
11 ninety days after receipt of such referral, the commission shall make
12 a determination setting forth the specific program area and the name
13 of the baccalaureate degree program. The commission shall report its
14 determination to the commissioner who shall issue a certificate
15 setting forth the programs for which the baccalaureate degree may be
16 awarded. Such authorization shall continue so long as the school
17 remains accredited.~~

18 Sec. 30. Section 85-1643, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 85-1643 (1) The Private Postsecondary Career Schools Cash
21 Fund is created. All fees collected pursuant to the Private
22 Postsecondary Career School Act shall be remitted to the State
23 Treasurer for credit to the fund. The fund shall be used only for the
24 purpose of administering the act. No fees shall be subject to refund.

25 (2) Except as provided in subsection (4) of this section,

1 fees collected pursuant to the act shall be the following:

2 (a) Initial application for authorization to operate, two
3 hundred dollars plus twenty dollars per program of study offered;

4 (b) Renewal application for authorization to operate, one
5 hundred dollars plus twenty dollars per program of study offered,
6 except that the board may establish a variable fee schedule based
7 upon the prior school year's gross tuition revenue as provided by the
8 school pursuant to section 85-1656;

9 (c) Approval to operate a branch facility, one hundred
10 dollars;

11 (d) Late submission of application, fifty dollars;

12 (e) Initial agent's permit, fifty dollars;

13 (f) Agent's permit renewal, twenty dollars;

14 (g) Accreditation or reaccreditation, one hundred
15 dollars;

16 (h) Initial authorization to award an associate degree,
17 one hundred dollars;

18 ~~(i) Initial authorization to offer a baccalaureate~~
19 ~~degree, two hundred dollars;~~

20 ~~(j)~~ (i) Significant program change, fifty dollars;

21 ~~(k)~~ (j) Change of name or location, twenty-five dollars;

22 and

23 ~~(l)~~ (k) Additional new program, one hundred dollars.

24 (3) Fees for out-of-state schools may include, but shall
25 not exceed the following:

1 (a) Certificate of approval to recruit, five hundred
2 dollars annually;

3 (b) Initial agent's permit, one hundred dollars; and

4 (c) Agent's permit renewal, forty dollars.

5 (4)(a) The board shall consult with the advisory council
6 established pursuant to section 85-1607 regarding any increase in
7 fees under the act. ~~The board may increase fees by not more than~~
8 ~~twenty percent for each year of fiscal years 2003-04, 2004-05, and~~
9 ~~2005-06.~~ Beginning with fiscal year 2006-07 and each year thereafter,
10 the board in consultation with the advisory council shall establish
11 fees sufficient to cover the total cost of administration, except
12 that such fees shall not exceed one hundred ten percent of the
13 previous year's total cost. Such fees shall be set out in the rules
14 and regulations adopted and promulgated by the board.

15 (b) Total cost of administration shall be determined by
16 an annual audit of:

17 (i) Salaries and benefits or portions thereof for those
18 department employees who administer the act;

19 (ii) Operating costs such as rent, utilities, and
20 supplies;

21 (iii) Capital costs such as office equipment, computer
22 hardware, and computer software;

23 (iv) Costs for travel by employees of the department,
24 including car rental, gas, and mileage charges; and

25 (v) Other reasonable and necessary costs as determined by

1 the board.

2 Sec. 31. This act becomes operative on September 15,
3 2011.

4 Sec. 32. Original sections 77-2704.12, 85-1604, 85-1620,
5 and 85-1643, Reissue Revised Statutes of Nebraska, and section
6 85-1412, Revised Statutes Cumulative Supplement, 2010, are repealed.

7 Sec. 33. The following sections are outright repealed:
8 Sections 85-1101, 85-1102, 85-1103, 85-1103.01, 85-1103.02, 85-1104,
9 85-1105, 85-1106, 85-1107, 85-1108, 85-1109, 85-1110, 85-1110.01, and
10 85-1111, Reissue Revised Statutes of Nebraska.