



**Hundredth Legislature - First Session - 2007
Committee Statement
LB 238**

Hearing Date: January 23, 2007
Committee On: Education

Introducer(s): (Fischer, 43)
Title: Create the Board of Trustees of the Nebraska Community Colleges

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - Advanced to General File with Amendments
 - X Indefinitely Postponed
-

Vote Results:

7	Yes	Senators Adams, Ashford, Burling, Howard, Johnson, Kopplin, and Raikes
1	No	Senator Avery
0	Present, not voting	
0	Absent	

Proponents:

Senator Deb Fischer
Howard Lamb
Pete McClymont
Keith Olsen

Representing:

Introducer
Self
Nebraska Cattlemen
Nebraska Farm Bureau

Opponents:

Dennis Baack
Jerry Hoffman

Representing:

Nebraska Community College Association
Nebraska State Education Association

Neutral:

Marshall Hill

Representing:

Coordinating Commission for Postsecondary Education

Summary of purpose and/or changes:

Legislative Bill 238 would replace the current governance structure for community colleges. The new Board of Trustees of the Nebraska Community Colleges would have general governance of all community colleges. In addition, each community college area would have a local advisory board. The authority to levy property taxes would be replaced with a state appropriation to be distributed by the new board. The changes contained in the measure would generally be effective beginning July 1, 2009.

New Provisions

The Board of Trustees for the Nebraska Community Colleges would be created in a new section. The Governor would appoint one member from each of the 6 community college area and 1 member at large, with the approval of the Legislature. Members would be appointed for staggered terms of 6 years each as the Governor determines. The Commissioner of Education would be a member ex officio. The members would not receive compensation. The members would be allowed reimbursement for expenses, except not mileage or other travel expenses unless on the basis provided for in §§ 81-1174 to 81-1177.

The members of the board would be required to annually elect a president and vice president. The board would also be required to select a secretary. The board would constitute a body corporate, and as such could sue and be sued and make and use a common seal. The State Treasurer would be treasurer of the board. A complete and comprehensive annual audit of the board and each of the community colleges would be required. The secretary would be required to keep an exact and detailed account of the doings of the board and to report to the Governor on January 1st of each year on all expenditures made during the preceding year.

The board would be responsible for the general governance of all community colleges. The powers and duties would be prescribed by law. The board would:

1. Appoint a president and others as required for each community college;
2. Fix the compensation and prescribe the duties of those appointed;
3. Have authority to remove appointees, with a vote of four members required for removal of a president or assistant;
4. Provide for holding of classes at various localities throughout the state, avoiding unnecessary duplication;
5. Have authority to acquire and dispose of real and personal property, except that legislative approval would be required to dispose of property with community college buildings;
6. Pay expenses for recruitment of academic, administrative, professional, and managerial personnel;
7. Provide benefits for all employees, including life, hospital-medical, and group long-term disability income insurance;
8. Institute a continuing program of preventive maintenance and a program of deferred maintenance consistent with the Deferred Building Renewal Act;
9. Consult with the Nebraska Arts Council and acquire works of art for original construction consistent with sections 82-317 to 82-329 and 85-106 to 85-106.03;
10. Have authority to enter into agreements for services, facilities, or equipment and for the presentation of courses for students;
11. Transfer tribally controlled community colleges state aid to tribally controlled community colleges;
12. Receive and disburse federal funds made available for community colleges;
13. Establish rents, charges, rates, and fees for the use of facilities and receive all revenue, rents, fees, income, profits, and charges derived from the facilities; and
14. Exercise any other powers, duties, and responsibilities necessary to carry out the act.

The board would be required to hold a regular meeting at or near the end of each semester and special meetings as necessary.

The president of each community college would be the chief executive officer of the college and would be responsible to the board for the control and management of the college. All teachers and other subordinates in each community college would be under the direction of the president, subject to the general regulations of the board. The president of each community college would receive and collect the fees for matriculation, board, and room and such other fees as may be payable at the community college and disburse the same under the direction of the board.

The role and mission of community colleges would remain the same. The board could prescribe courses of instruction that would carry out the role and mission. The board would be required to appoint an Associate Director for Technical Education to carry out the duties assigned by the board with respect to coordinating and enhancing technical education.

The board could upon completion of an appropriate course of study prescribed by the board at a community college and on the recommendation of faculty, confer an associate degree, a certificate, or a diploma. The board would make rules and regulations for the admission of students as may seem to be best in the interests of the community colleges.

The board would adopt and promulgate rules and regulations for the careful preservation of the buildings, furniture, apparatus, grounds, timber, shrubbery, and other property belonging to the community colleges. The board could make such contract for the sale or lease of the whole or part of any water, light, or heat plant at any community college and the purchase of water, heat, and light with any city, village, or corporation at or near any community college.

All funds appropriated for community colleges, together with the income arising from the lease and sale of endowment lands, shall be under the direction and control of the board, except that each community college may retain a sum not to exceed \$300,000 out of which to make settlement and equitable adjustments with students entitled to such adjustments, to make payments for day-to-day operations calling for immediate payment, and to provide for contingencies. The State Treasurer shall pay all warrants for money to be expended for community colleges with the warrants drawn by the Director of Administrative Services on certificates by the presidents of the community colleges. All requests for payment or reimbursement for mileage or travel expenses would be audited and allowed only pursuant to §§ 81-1174 to 81-1177. Out of state travel would require approval of the president of the community college or his or her designee.

The board would be authorized to receive gifts and endowments on behalf of any community college. The board would be trustees of the gifts and endowments. All money received for the use of dormitories would be expended by the board in repairs and the furniture of the dormitory as needed. The board would have the power and authority to acquire land by condemnation.

Community colleges would be funded in the same manner as the state colleges. The board would adopt rules and regulations relating to submission of budget requests for, funding of, and distribution of appropriations to community colleges.

Each community college area would have a local advisory board. Members of the initial advisory boards would be members serving on the board of governors on July 1, 2009. At the expiration of each member's elective term, the seat would be filled by appointment. Three members of the local advisory board would be appointed by the Board of Trustees, two members would be appointed by representatives of the community college campuses, and two members would be appointed by the remaining members of the local advisory board. Except initial members, members shall serve for terms of 6 years. Members may be reappointed. Members would not be compensated, but would be reimbursed for expenses as provided in §§ 81-1174 to 81-1177.

Community colleges would be allowed to institute pilot programs without approval of the Board of Trustees if the advisory board finds that each pilot program is responsive to unique local needs within the priorities in § 85-962. The pilot programs would be subject to the waiver process of the Coordinating Commission for Postsecondary Education pursuant to section 85-1414 (2)(a).

On July 1, 2009, all property rights, titles, assets, contracts, and choses in action of any kind owned, held or controlled by a Community College Board of Governors would be transferred to the Board of Trustees. Title to facilities and revenue derived from the facilities, which has been pledged for revenue bonds shall vest in the Board of Trustees. Obligations incurred before July 1, 2009 would be paid pursuant to appropriation by the Legislature. It would be the stated intent that the next Legislature would appropriate funds to fully pay the obligations.

Before July 1, 2009, the Community College Boards of Governors and the Board of Trustees of the Nebraska Community Colleges would enter into agreements as necessary relating to the conveyance and transfer of the property and rights and to make appropriate provisions with respect to existing debt obligations, including revenue bonds. The boards of governors, acting as a corporation for the revenue bond programs for the community college areas, and their officers and staff shall be reimbursed for any expenses incurred in the process.

On July 1, 2009, all employees of the community college areas would be transferred to the Board of Trustees. The transferred employees would retain all benefits and the status of employment accrued, including retirement benefits not vested. The transferred employees, except academic, faculty, and teaching employees who are included in a collective-bargaining unit, shall cease participation in the employee benefit programs of a community college area.

The Board of Trustees would have authority to enter into a collective-bargaining agreement with any certified collective-bargaining agent for academic, faculty, and teaching employees. The board would be required to bargain and negotiate in good faith with the bargaining agents pursuant to the State Employees Collective Bargaining Act. The academic, faculty, and teaching employees would be required to cease participation in the retirement program of a community college area and begin participation in the applicable retirement program.

The Community College Operations Fund would be created. The fund would consist of all fees and other money collected from students, all receipts from community college activities collected in connection with the operation of the community colleges, and the money and funds received at the time the community colleges came under the governance of the Board of Trustees. A record shall be kept separating the money and funds into appropriate and convenient accounts. Any money remaining in the Nebraska Community College Aid Cash Fund would be

transferred to the Community College Operations Fund. All money in the fund shall be used for the maintenance and operation of the community colleges when appropriated by the Legislature. No warrant could be issued unless there is money sufficient to pay the warrant. Any money in the fund available for investment would be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The Community College Trust Fund would also be created. The fund would consist of all property, real or personal, acquired by donation or bequest. Such property would be held and applied in the manner provided by and according to the provisions of the person or entity making the donation or bequest. The holdings and management would be in strict accordance with all terms of the donation or bequest, except that in the absence of any investment instructions, the funds could be invested in investments authorized for trustees, guardians, personal representatives, or administrators.

Amended Sections

Sections 10-127 and 10-142 would be amended by replacing community colleges with the Board of Trustees of the Nebraska Community Colleges for the purpose of bonded indebtedness. Section 10-1103 would be amended by removing community colleges from the Nebraska Governmental Unit Security Act.

Section 13-503 would be amended by removing community colleges from the Nebraska Budget Act. Section 13-518 would be amended by removing community colleges from allowable growth provisions and eliminating a reference to state aid to community colleges. Section 13-519 would be amended by eliminating restricted funds provisions for community colleges.

Section 13-916 would be amended by removing community colleges from the authorization to purchase liability insurance.

Section 13-1612 would be amended by removing community colleges from the definition of political subdivisions.

Section 13-2202 would be amended by removing community colleges from the Local Government Miscellaneous Expenditures Act.

Section 18-2115 would be amended by removing community colleges from the notice provisions for redevelopment plans.

Section 32-567 would be amended by removing offices in community college areas from the vacancy provisions.

Section 32-607 would be amended by removing members of community college governing boards from the candidate provisions. Section 32-608 would be amended by removing candidates for a board of governors of a community college from the filing fee requirements.

Section 32-811 would be amended by would be amended by removing candidates for the board of governors of a community college area from the nomination provisions.

Section 32-1203 would be amended by removing community college areas from the political subdivisions that pay for the costs of nominating and electing officers.

Sections 32-1301 and 32-1302 would be amended by removing community college areas from the recall provisions.

Section 44-1615 would be amended by removing community colleges from the authorization for political subdivisions to participate in health plans and life insurance.

Section 48-621 would be amended to eliminate the possibility of a transfer from the Employment Security Special Contingent Fund to the Nebraska Community College Aid Cash Fund.

Section 48-622.03 would be amended by replacing the chairperson of the governing board of the Nebraska Community College Association with a member of one of the advisory boards created pursuant to this act on the Nebraska Worker Training Board.

Section 48-811.02 would be amended by removing community colleges from the special master provisions for negotiation disputes.

Section 49-506 would be amended by adding each of the community colleges to the entities receiving session laws. Currently, one copy received by the Coordinating Commission for Postsecondary Education is to be for use by the community colleges.

Section 66-1062 would be amended by removing community college areas from the energy financing provisions.

Sections 73-2302, 72-2303, 72-2304, and 72-2306 would be amended by removing community colleges from the Public Facilities Construction and Finance Act.

Section 77-1601.02 would be amended by removing community colleges from the provisions for setting a tax request.

Section 77-3442 would be amended by restricting the levy limit provisions for community colleges to fiscal years through 2008-09. Clarification would also be added stating that the definition for reported aid equivalent student to be used for maximum levy purposes would be the definition in section 85-1503 as the section existed before the operative date of the changes to section 77-3442. The changes to section 77-3442 are operative on the effective date of the act. The changes to section 85-1503 are operative on July 1, 2009.

Section 77-3443 would be amended by removing community colleges from the political subdivisions that do not rely on county authorization for their levy.

Section 77-3445 would be amended by removing community colleges from potential membership on public improvements and services.

Section 79-902 would be amended by replacing community college boards of governors with the Board of Trustees of the Nebraska Community Colleges as a governing entity which cannot control a public school for purposes of the School Employees Retirement Act, but that can employ an emeritus member.

Section 79-919 would be amended by replacing community college boards of governors with the Board of Trustees of the Nebraska Community Colleges as an employer for whom employees are not under the provisions of the School Employees Retirement Act.

Section 79-922 would be amended by replacing community college boards of governors with the Board of Trustees of the Nebraska Community Colleges as an allowed employer for people receiving retirement benefits under the School Employees Retirement Act.

Section 81-1118.02 would be amended by replacing the State Board of Community Colleges with the Board of Trustees of the Nebraska Community Colleges as an agency which is required to annually inventory all property.

Section 81-1201.21 would be amended by harmonizing a cross reference to the amended section 48-621.

Section 85-606.01 would be amended by replacing community college area boards with the Board of Trustees in the provisions providing authority to purchase retirement annuity contracts for employees.

Section 85-917 would be amended by harmonizing cross-references.

Section 85-933 would be amended by harmonizing cross-references.

Section 85-949 would be amended by harmonizing cross-references.

Section 85-966 would be amended by replacing boards of governors with the Board of Trustees for the requirements to implement the philosophy of the State of Nebraska as provided in §§ 85-917 to 85-966.01.

Section 85-966.01 would be amended by recognizing the authority of local advisory boards to implement pilot projects.

Section 85-9,167 would be amended by replacing boards of governors with the Board of Trustees for the Nebraska Equal Opportunity in Postsecondary Education Act.

Sections 85-9,181 and 85-9,182 would be amended by replacing boards of governors with the Board of Trustees for the Minority Scholarship Program Act.

Section 85-1402 would be amended by removing provisions from the Coordinating Commission for Postsecondary Education Act for property tax levies used to establish a capital improvement and bond sinking fund. A provision is also added defining pilot program as specific short-term job training programs or specific short-term public service programs as defined by the

Coordinating Commission pursuant to § 85-1414(2)(a). Pilot programs are excluded from the definition of program.

Section 85-1404 would be amended by adding local needs to regional needs in the considerations of the Coordinating Commission.

Section 85-1412 would be amended by harmonizing cross-references.

Section 85-1413 would be amended by harmonizing cross-references and by recognizing pilot programs as an exception to the prohibition against providing programs outside of the assigned geographic service area unless permitted by Coordinating Commission rules and regulations.

Section 85-1414 would be amended by recognizing pilot programs as an exception to the Coordinating Commission's process for reviewing, monitoring, and approving new and existing programs. Pilot program reviews pursuant to the new provisions are referenced. Cross-references are also harmonized.

Section 85-1416 would be amended by including pilot programs to be continued beyond the initial two-year period and other pilot programs in the budget outline for each postsecondary institution. The requirement for boards of governors to submit budget and state aid requests to the Coordinating Commission would be eliminated. Pilot programs would be excluded from budget recommendations of the Commission.

Section 85-1418 would be amended by adding pilot projects to the programs for which state warrants shall not be issued. Pilot programs are then added to the remaining warrant provisions. The provisions are deleted that allow for the reduction of state aid to community colleges which provide programs or have capital construction projects which have not been approved.

Section 85-1503 would be amended by restricting community colleges to programs of two academic years or less and deleting the definitions of terms used in the current community college aid formula. Tribally controlled community college state aid would be redefined as the amount of state aid to be distributed to tribally controlled community colleges. The section would also be amended by renumbering the section, replacing the community college boards of governors with the Board of Trustees of the Nebraska Community Colleges, and harmonizing cross-references.

Section 85-1504 would be amended by renumbering the section.

Sections 85-1541 and 85-1542 would be amended by renumbering the sections and harmonizing with other changes in the proposal.

Section 86-594 would be amended by harmonizing cross-references.

Outright Repeals

The following sections would be outright repealed as of July 1, 2009:

32-514: Board of governors elections

85-312: Religious test prohibition and student morality for state colleges

85-1501: Intent and purpose for community colleges
85-1501.01: Community college funding intent
85-1502: Community college statewide association
85-1505: Community college areas as a body corporate
85-1506: Board of governors membership
85-1507: Board of governors officers, quorum, etc.
85-1508: Bonding of community college officers
85-1509: Board of governors expenses
85-1510: Community college area indemnification
85-1511: Board of governors powers and duties
85-1512: Board of governors election districts
85-1514: Board of governors vacancies
85-1515: Community college revenue and general obligation bonds
85-1516: Community college warrants
85-1517: Community college levy
85-1518: Community college voter approved expenditures
85-1519: Community college capital bids
85-1520: Community college facilities
85-1521: Community college revenue bonds
85-1522: Community college revenue bonds
85-1523: Community college revenue bonds
85-1524: Community college revenue bonds
85-1525: Community college utilities
85-1526: Community college revenue bonds
85-1527: Community college revenue bonds
85-1528: Community college teacher contracts
85-1529: Community college teacher contracts
85-1530: Community college reduction-in-force
85-1531: Community college reduction-in-force
85-1532: Community college reduction-in-force
85-1533: Community college reduction-in-force
85-1534: Community college employee probationary period
85-1534.01: Community college leave of absence
85-1535: Community college facilities for applied technology educational programs
85-1536: Community college aid
85-1536.01: Community college aid
85-1537: Community college aid
85-1538: Community college aid
85-1539: Community college aid
85-1540: Community college aid

Other Details

Most of the measure would be operative on July 1, 2009. The sections that would be operative on the effective date include the changes to the levy limitations, provisions for the new funding, provisions for the new advisory boards, pilot programs, changes to the Coordinating Commission duties, and budget outline requirements.

Explanation of amendments, if any:

Senator Ron Raikes, Chairperson