

LEGISLATIVE BILL 440

Approved by the Governor May 22, 2009

Introduced by Council, 11; Cook, 13.

FOR AN ACT relating to postsecondary educational institutions; to amend sections 85-9,178, 85-9,182, and 85-1402, Reissue Revised Statutes of Nebraska; to change the diversity criteria under the Student Diversity Scholarship Program Act; to change provisions relating to capital and facility expenditures; and to repeal the original sections.

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

Section 1. Section 85-9,178, Reissue Revised Statutes of Nebraska, is amended to read:

85-9,178 (1) The Legislature finds that the State of Nebraska has a compelling interest to provide access to the University of Nebraska, the state colleges, and the community colleges for students from diverse ~~racial, ethnic, and cultural~~ backgrounds who often find that the financial requirements of postsecondary education are a major obstacle. The Legislature further finds that the State of Nebraska has a compelling interest in attaining greater diversity in the ~~racial, ethnic, and cultural~~ makeup of the student bodies at the University of Nebraska, the state colleges, and the community colleges because of the educational benefits that a diverse educational environment will produce for all students attending the University of Nebraska, the state colleges, and the community colleges.

(2) It is the intent of the Legislature:

(a) To appropriate funds to support a student diversity scholarship program for the purpose of developing more ~~racially, ethnically, and culturally~~ diverse student bodies at the state's public postsecondary educational institutions;

(b) That the student diversity scholarship program be designed and implemented so as to achieve a greater ~~racial, ethnic, and cultural~~ diversity in student populations in fulfillment of the compelling interest found by the Legislature pursuant to subsection (1) of this section; and

(c) That all funds appropriated by the Legislature for student diversity scholarships at the University of Nebraska, the state colleges, and the community colleges shall be used in coordination with private donations for such scholarships and in consultation with the major donors thereof and in coordination with federal grant funds available to students at the University of Nebraska, the state colleges, and the community colleges so as to maximize the level of benefits and accomplish the purposes of the Student Diversity Scholarship Program Act.

Sec. 2. Section 85-9,182, Reissue Revised Statutes of Nebraska, is amended to read:

85-9,182 Criteria for the award of scholarships under the Student Diversity Scholarship Program Act shall be determined in accordance with state and federal law by a committee selected by the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, and the community college boards of governors. The committee shall include members ~~of underrepresented minority~~ from diverse groups and private donors to the endowed scholarship funds. Awards shall be consistent with the intent stated in the act and with the constitutions and laws of the United States and the State of Nebraska.

Sec. 3. Section 85-1402, Reissue Revised Statutes of Nebraska, is amended to read:

85-1402 For purposes of the Coordinating Commission for Postsecondary Education Act:

(1)(a) Capital construction project shall mean a project which utilizes tax funds designated by the Legislature and shall be: Any proposed new capital structure; any proposed addition to, renovation of, or remodeling of a capital structure; any proposed acquisition of a capital structure by gift, purchase, lease-purchase, or other means of construction or acquisition that (i) will be directly financed in whole or in part with tax funds designated by the Legislature totaling at least the minimum capital expenditure for purposes of this subdivision or (ii) is likely, as determined by the institution, to result in an incremental increase in appropriation or expenditure of tax funds designated by the Legislature of at least the minimum capital expenditure for the facility's operations and maintenance costs in any one fiscal year within a period of ten years from the date of substantial completion or acquisition of the project. No tax funds designated by the

Legislature shall be appropriated or expended for any incremental increase of more than the minimum capital expenditure for the costs of the operations and utilities of any facility which is not included in the definition of capital construction project and thus is not subject to commission approval pursuant to the Coordinating Commission for Postsecondary Education Act. No institution shall include a request for funding such an increase in its budget request for tax funds designated by the Legislature nor shall any institution utilize any such funds for such an increase. The Governor shall not include in his or her budget recommendations, and the Legislature shall not appropriate, such funds for such increase.

(b) For purposes of this subdivision:

(i) Directly financed shall mean funded by:

(A) Appropriation of tax funds designated by the Legislature for the specific capital construction project;

(B) Property tax levies used to establish a capital improvement and bond sinking fund pursuant to section 85-1515; or

(C) That portion of tax funds designated by the Legislature and appropriated by the Legislature for the general operation of the public institution and utilized to fund the capital project;

(ii) Incremental increase shall mean an increase in appropriation or expenditure of tax funds designated by the Legislature of at least the minimum capital expenditure for a facility's operations and maintenance costs, beyond any increase due to inflation, to pay for a capital structure's operations and maintenance costs that are a direct result of a capital construction project; and

(iii) Minimum capital expenditure shall mean:

(A) For purposes of subdivision (a)(i) of this subdivision, a base amount of ~~five hundred thousand~~ two million dollars; and

(B) For the facility's operations and maintenance costs pursuant to subdivision (a)(ii) of this subdivision, a base amount of ~~seventy-five~~ eighty-five thousand dollars for any one fiscal year.

~~Both base amounts~~ The base amount for the facility's operations and maintenance costs shall be subject to any inflationary or market adjustments made by the commission pursuant to this subdivision. The commission shall adjust the base ~~amounts~~ amount on a biennial basis beginning January 1, ~~2008-~~ 2010. The adjustments shall be based on percentage changes in a construction cost index and any other published index relevant to operations and utilities costs, both as selected by the commission in cooperation with the public institutions. The index or indices shall reflect inflationary or market trends for the applicable operations and maintenance or construction costs;

(2) Commission shall mean the Coordinating Commission for Postsecondary Education;

(3) Coordination shall mean:

(a) Authority to adopt, and revise as needed, a comprehensive statewide plan for postsecondary education which shall include (i) definitions of the role and mission of each public postsecondary educational institution within any general assignments of role and mission as may be prescribed by the Legislature and (ii) plans for facilities which utilize tax funds designated by the Legislature;

(b) Authority to review, monitor, and approve or disapprove each public postsecondary educational institution's programs and capital construction projects which utilize tax funds designated by the Legislature in order to provide compliance and consistency with the comprehensive plan and to prevent unnecessary duplication; and

(c) Authority to review and modify, if needed to promote compliance and consistency with the comprehensive statewide plan and prevent unnecessary duplication, the budget requests of the governing boards or any other governing board for any other public postsecondary educational institution which may be established by the Legislature;

(4) Education center shall mean an off-campus branch of a public institution or cooperative of either public or public and private postsecondary educational institutions which offers instructional programs to students;

(5) Governing board shall mean the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, or the board of governors for each community college area;

(6) Program shall mean any program of instruction which leads directly to a degree, diploma, or certificate and, for purposes of section 85-1414, shall include public service programs and all off-campus instructional programs, whether or not such programs lead directly to a degree, diploma, or certificate. Program shall also include the establishment of any new college, school, major division, education center, or institute

but shall not include reasonable and moderate extensions of existing curricula which have a direct relationship to existing programs;

(7) Public institution shall mean each campus of a public postsecondary educational institution which is or may be established by the Legislature, which is under the direction of a governing board, and which is administered as a separate unit by the board; and

(8) Tax funds designated by the Legislature shall mean all state tax revenue and all property tax revenue.

Sec. 4. Original sections 85-9,178, 85-9,182, and 85-1402, Reissue Revised Statutes of Nebraska, are repealed.