

**ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011**  
**COMMITTEE STATEMENT**  
**LB637**

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**Hearing Date:** Monday February 07, 2011  
**Committee On:** Education  
**Introducer:** Adams  
**One Liner:** Adopt the Postsecondary Institution Act and change provisions relating to the Coordinating Commission for Postsecondary Education

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

**Aye:** 8 Senators Adams, Avery, Cornett, Council, Haar, Howard, Schilz, Sullivan  
**Nay:**  
**Absent:**  
**Present Not Voting:**

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**Proponents:**

Senator Greg Adams  
Marshall Hill  
  
Tip O'Neill  
  
Jason Pfaff  
Brian Halstead  
Jeremy Brunssen

**Representing:**

Introducer  
Nebraska Coordinating Commission for Postsecondary Education  
Association of Independent Colleges and Universities of Nebraska  
University of Phoenix  
Nebraska Department of Education  
Kaplan Higher Education

**Opponents:**

**Representing:**

**Neutral:**

Jim Cunningham

**Representing:**

Nebraska Catholic Conference

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**Summary of purpose and/or changes:**

Legislative Bill 637 would create the Postsecondary Institution Act to ensure minimum standards of operation for private or out-of-state postsecondary institutions and to provide consumer protection. The Act replaces current provisions regulating such institutions. The new Act is similar to the existing provisions with some exceptions. The Commission would have full responsibility for private career schools that expand to offer baccalaureate degree programs. Procedures and the definition of physical presence would be clarified. Authorizations to operate would be limited to 5 years until the institution had been operating in compliance with the law for 20 years under the same ownership, at which time it would be exempt from the Act. The institutions would no longer be required to prove a demonstrated need and demand for programs. The criminal sanctions for violating current statutes would not be replaced. However, complaint procedures would be put in place and the Commission would be authorized to request injunctive relief in addition to powers given to the Attorney General and county attorneys. The Coordinating Commission for Postsecondary Education would administer the Act. Private Postsecondary Career Schools would continue to be regulated by the Department of Education.

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## Section by Section Summary

Section 1 would create the Postsecondary Institution Act.

Section 2 would declare the purpose of the act is to ensure minimum standards for private or out-of-state postsecondary institutions operating in Nebraska and provide adequate consumer protection for Nebraska residents.

Section 3 would provide definitions for the Act.

Authorization to operate would mean approval by the Commission to operate in Nebraska.

Commission would mean the Coordinating Commission for Postsecondary Education.

Department would mean the State Department of Education.

Establishing a physical presence would mean establishing a physical location where students may receive synchronous or asynchronous instruction, offering a course or program that requires students to meet in one location more than once during the course term, establishing an administrative office, providing office space for staff, or establishing a mailing address in the state. Asynchronous courses do not require students in the course to participate at the same time and are generally offered over the Internet.

Physical presence would not include short courses or seminars with no more than 20 classroom hours, course offerings on a military installation solely for military personnel or civilian employees, or educational experiences arranged for an individual student, such as a clinical, practicum, residency, or internship.

Executive director would mean the executive director of the Commission or his or her designee.

Out-of-state public institution would mean a public institution established, operated, and governed by another state or its political subdivisions.

Postsecondary institution would mean any private or out-of-state public postsecondary institution exempt from the Private Postsecondary Career School Act.

Private postsecondary institution would mean any for-profit or nonprofit nonpublic postsecondary institution.

Section 4 would exempt institutions from the Act as follows:

Private institutions that have offered one or more four-year undergraduate programs for at least 20 academic years under current ownership in compliance with state and federal law;

Public institutions established, operated, and governed by Nebraska or a political subdivision of Nebraska;

Institutions or organizations which are licensed and regulated solely by an agency of the federal government with respect to curriculum and qualifications of instructional staff; and

Private postsecondary career schools as defined in the Private Postsecondary Career School Act.

Section 5 would prohibit any postsecondary institution from operating in Nebraska by establishing a physical presence in the state until it has received authorization to operate by the Commission.

Section 6 would prohibit institutions from charging tuition or fees for more than one academic term or requiring a student to sign loan documents for more than one academic term.

Section 7 would require out-of-state institutions authorized prior to the Act to apply for authorization under the Act on or before December 31, 2011. The original authorization for institutions failing to apply shall terminate. An application for authorization would be deemed an application for renewal of the original authorization for purposes of the Act.

Section 8 would require any postsecondary institution not previously authorized to operate by the Commission or other state agency prior to the operative date of this act to apply no more than 90 days after the operative date of the Act. Regionally accredited institutions originally authorized as an instate institution prior to the operative date of the Act would be required to apply no later than one year after the institution's last required annual report. Private institutions that are not regionally accredited and were originally authorized by the Commission as instate institutions prior to the operative date of the Act would be required to apply on or before July 1, 2012. Other institutions subject to the act would be required to apply on or before December 31, 2011. Applications under this section would be deemed an application for renewal of the institution's original authorization. If an institution fails to apply by the specified date, the original authorization to operate would terminate on such date.

Section 9 would designate the Commission to administer the Act. The Commission would be authorized to request and receive information necessary to exercise its powers and perform its duties from any department, division, board, bureau, commission, or other agency of the state. The entities would be required to provide the information.

Section 10 would provide the Commission with the following powers and duties:

- To establish minimum standards, including quality of education, ethical and business practices, health and safety, and fiscal responsibility;
- To establish levels of authorization;
- To receive, investigate, and act upon applications to operate and to renew authorizations to operate;
- To establish reporting requirements;
- To maintain and make public a list of institutions authorized to operate in the state;
- To establish a notification process that may include a site visit when an institution changes its address or adds instructional sites within the state;
- To establish fees for applications and renewal applications, limited to the cost of administering the Act;
- To investigate any violations of the Act; and
- To adopt and promulgate rules, regulations, and procedures to administer the Act.

Section 11 would require the Commission to adopt and promulgate rules and regulations to establish minimum standards. Institutions would be required to demonstrate the ability to operate in accordance with the standards. The standards would be required to include, but not be limited to:

- Financial soundness and capability to fulfill proposed commitments;
- Quality and adequacy of teaching faculty, library services, and support services;
- Quality of the programs offered, including courses, programs of instruction, and degrees;
- Specific locations where programs will be offered or planned locations and a demonstration that facilities are adequate;
- Adequate assurances regarding transfer of credits earned in the program to the main campus of such institution and clear and accurate representation about the transferability of credit to other institutions;
- Whether the institution and programs are fully accredited, or seeking accreditation, by an accrediting body recognized by the U.S. Department of Education;
- Tuition refund policy, if the institution does not participate in federal Title IV financial aid programs; and
- Other standards deemed necessary by the Commission.

Section 12 would provide that, after review of an application, including any further information submitted as required by the Commission, and any investigation the Commission may deem necessary or appropriate, the Commission would be required to grant or deny the application. A grant of authorization to operate could be on such terms and conditions as specified by the Commission. Authorizations could not exceed a 5 years.

The Commission would be required to hold a public hearing for applicants seeking to establish a new campus. The hearing would be scheduled following a completed review of the application. The Commission would grant or deny the application after the hearing.

Section 13 would require authorizations to operate to be in a form approved by the Commission and would clearly state at least the following information:

The date of issuance, effective date, and term of the authorization;  
The full and correct name and address of the institution;  
The authority for authorization to operate and the conditions thereof; and  
Any limitations deemed necessary by the Commission.

Section 14 would require that any institution ceasing to meet any of the requirements be notified in writing of the specific deficiency by certified mail. A hearing would be scheduled requiring the institution to show cause why the authorization should not be suspended or revoked. If the Commission determines that any requirements have been violated, the Commission could suspend or revoke the authorization or require action as a condition of continued authorization.

Section 15 would specify that authorizations be issued to the owner or governing body of the institution and would be nontransferable. If there is a change in ownership, the new owner would be required to apply for a new authorization within 30 days after the change. If the institution failed to apply within such time period, the original authorization would terminate. The application could be deemed an application for renewal of the institution's original authorization. Verification would be required that all student records were transferred intact and in good condition to the new owner.

Section 16 would require institutions to apply to renew authorizations at least 90 days prior to the expiration of the existing authorization. Financial stability information would accompany the application. The renewal application would be reviewed and acted upon as provided for an initial application, except that no public hearing would be required.

Section 17 would provide a right to a hearing and review to any institution denied an authorization.

Section 18 would require the aggrieved party to notify the Commission in writing within 10 business days after receipt of the denial notice. If the aggrieved party does not notify the Commission pursuant to this section, the action would be deemed final. Upon receipt of notice from the aggrieved party, the Commission would fix the time and place for a hearing and notify the aggrieved party by certified mail.

Section 19 would declare Commission decisions following a hearing to be final and subject to the right of judicial review. All matters presented at the hearing would be required to be acted upon promptly and the Commission would notify all parties in writing of its decision, which would include a statement of findings and conclusions upon all material issues of fact, law, or discretion and the appropriate rule, order, sanction, relief, or denial thereof.

Section 20 would allow any person claiming damage or loss as a result of any act or practice by an institution, which is a violation of the Act, to file a complaint against such institution with the Commission. The complaint would be required to set forth the alleged violation and contain other information as may be required by the Commission. Complaints could be filed by the executive director or Attorney General.

Section 21 would authorize the Commission to consider a complaint after 10 days' written notice by certified mail, return receipt requested, giving notice of a time and place for a hearing.

Section 22 would require the Commission to issue a cease and desist order if the Commission finds the institution has engaged in or is engaging in any act or practice violating the Act. The Commission would also be authorized to commence an action to revoke an institution's authorization to operate based on the Commission's own investigation, the hearing, or both.

Section 23 would authorize any person aggrieved or adversely affected by any final Commission action to appeal.

Section 24 would authorize the Attorney General or the county attorney of the county in which an institution is located to bring an action or proceeding in a court of competent jurisdiction to enforce the Act at the request of the Commission or on his or her own accord.

Section 25 would authorize the Commission to file a petition for injunction in a court of competent jurisdiction for the purpose of enjoining a violation or for an order directing compliance with the Act. The Commission would not be

required to allege or prove that there is not adequate remedy at law. The right of injunction would be in addition to any other legal remedy and would be in addition to any right of criminal prosecution provided by law. The Commission would not obtain a temporary restraining order without notice to the entity affected. The pendency of Commission action with respect to alleged violations would not operate as a bar to an action for injunctive relief.

Section 77-2704.12 would be amended by revising the sales and use tax exemption to apply to nonprofit institutions authorized to operate under the Act, rather than nonprofit private colleges or universities established under the sections that would be outright repealed.

Section 85-1412 would be amended by adding the administration of the Act to the Commission's duties and by eliminating duties that are, or would become, obsolete.

Section 85-1604 would be amended by modifying the exemptions from the Private Postsecondary Career School Act. Schools and organizations that offer education that is not part of a degree program and which are licensed and regulated by agencies other than the Department of Education would be exempt. Currently such schools are exempt regardless of their degree granting status if they were being licensed and regulated by agencies other than the Department of Education as of September 2, 1977. The language specifically exempting institutions that would be covered by the new Act would be eliminated, and the institutions would be exempt under a new exemption for institutions offering or proposing to offer courses or programs leading to a baccalaureate degree or higher. Schools that have been approved to offer baccalaureate degree programs, but which have not become regionally accredited would be under the new Act, not the Private Postsecondary Career School Act.

Section 85-1620 would be amended by eliminating the procedure for schools to apply to the Department of Education to award baccalaureate degrees with the applications referred to the Commission for approval.

Section 85-1643 would be amended by allowing the State Board of Education to establish a variable fee schedule based upon the prior school year's gross tuition revenue for renewals under the Private Postsecondary Career School Act. The section would also be amended by eliminating the fee for the initial authorization to offer a baccalaureate degree since that duty would be with the Commission under the new Act. Obsolete language would be eliminated.

The operative date of the measure would be September 15, 2011.

Sections 85-1101 to 85-1111 would be outright repealed.

Section 85-1101 defines out-of-state institutions.

Section 85-1102 requires out-of-state institutions to register with the Commission.

Section 85-1103 provides the factors to be considered by the Commission in authorizing an out-of-state institution, allows fees to be charged, and allows for revocation or suspension of authorizations.

Section 85-1103.01 provides for the authorization for out-of-state institutions to provide courses or degrees via telecommunications within Nebraska.

Section 85-1103.02 requires a hearing on the applications for out-of-state institutions.

Section 85-1104 provides for a Class III misdemeanor for violating section 85-1101 to 85-1103.02.

Section 85-1105 provides for the establishment of a new private college or the extension into baccalaureate or higher degree programs.

Section 85-1106 provides for the petitions for the establishment of a new private college or extension into baccalaureate or higher degree programs.

Section 85-1107 requires a hearing for the establishment of a new private college or extension into baccalaureate or higher degree programs.

Section 85-1108 provides the factors to be considered by the Commission in authorizing a new private college or extension into baccalaureate or higher degree programs.

Section 85-1109 requires the Commission approve or disapprove petitions for the establishment of a new private college or extension into baccalaureate or higher degree programs.

Section 85-1110 provides that approval of a petition authorizes the establishment of a new private college or extension into baccalaureate or higher degree programs and that disapproval does not.

Section 85-1110.01 provides for a Class III misdemeanor for violating section 85-110 to 85-1110.

Section 85-111 allows for provisional accreditation for a private college which has not previously been regionally accredited.

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**Explanation of amendments:**

The Committee Amendments replace the original provisions with a revised Postsecondary Institution Act, add the provisions of Legislative Bills 372 and 58, and revise the timeline phasing out the optometry program as passed earlier this session in LB 334. The provisions from LB 372 would enable the University to offer certificates in additional fields upon approval from the Coordinating Commission if the preponderance of the courses comprising any such certificate are above the associate-degree level. The provisions from LB 58 would require a study of the need for uniform policies and practices regarding dual-enrollment courses and career academies.

**\*Postsecondary Institution Act**

The Postsecondary Institution Act would ensure minimum standards of operation for private or out-of-state postsecondary institutions and provide consumer protection. The Act replaces current provisions regulating such institutions. The new Act would be similar to the existing provisions with some exceptions. The Commission would have full responsibility for private career schools that expand to offer baccalaureate degree programs. Procedures and the definition of physical presence would be clarified. Authorizations to operate would be limited to 5 years until the institution had been operating in compliance with the law for 20 years under the same ownership. The institutions would no longer be required to prove a demonstrated need and demand for programs. The criminal sanctions for violating current statutes would not be replaced. However, complaint procedures would be put in place and the Commission would be authorized to revoke authorizations to operate and request injunctive relief in addition to powers given to the Attorney General and county attorneys. The Coordinating Commission for Postsecondary Education would administer the Act. Private Postsecondary Career Schools would continue to be regulated by the Department of Education.

Section 1 would create the Postsecondary Institution Act.

Section 2 would declare the purpose of the act is to ensure minimum standards for private or out-of-state postsecondary institutions operating in Nebraska and provide consumer protection for students.

Section 3 would provide definitions for the Act.

Authorization to operate would mean approval by the Commission to operate in Nebraska.

Authorization to operate on a continuing basis would mean approval by the Commission to operate without a renewal requirement.

Commission would mean the Coordinating Commission for Postsecondary Education.

Department would mean the State Department of Education.

Establishing a physical presence would mean:

Offering a course for college credit or a degree program in Nebraska that leads to an associate, baccalaureate, graduate, or professional degree, including:

Establishing a physical location where students may receive synchronous or asynchronous instruction; or

Offering a course or program that requires students to meet in one location more than once during the course term; or

Establishing an administrative office, including:

Maintaining an administrative office in Nebraska for the purpose of enrolling students, providing information, or student support services;

Providing office space for staff; or

Establishing a mailing address in the state.

Physical presence would not include:

Short courses or seminars with no more than 20 classroom hours;

Course offerings on a military installation solely for military personnel or civilian employees;

Educational experiences arranged for an individual student, such as a clinical, practicum, residency, or internship; or

Courses offered entirely asynchronously, include strictly online courses.

Executive director would mean the executive director of the Commission or his or her designee.

Nebraska public postsecondary institution would mean an institution established, operated, and governed by the state or a political subdivision.

Out-of-state public institution would mean a public institution established, operated, and governed by another state or its political subdivisions with a physical presence in Nebraska.

Postsecondary institution would mean any private, out-of-state public, or Nebraska public postsecondary institution.

Private postsecondary institution would mean any for-profit or nonprofit nonpublic postsecondary institution with a physical presence in Nebraska.

Section 4 would designate the Commission to administer the Act. The Commission would be authorized to request and receive information necessary to exercise its powers and perform its duties from any department, division, board, bureau, commission, or other agency of the state. The entities would be required to provide the information.

Section 5 would provide the Commission with the following powers and duties:

To establish levels of authorization to operate based on institutional offerings;

To receive, investigate, and act upon applications to operate and to renew authorizations to operate;

To establish reporting requirements by campus location through either the federal Integrated Postsecondary Education Data System or directly to the Commission;

To maintain and make public a list of institutions authorized to operate in the state;

To establish a notification process when an institution changes its address or adds instructional sites within the state;

To conduct site visits of postsecondary institutions to carry out the Act;

To establish fees for applications and renewal applications, limited to the cost of reviewing and evaluating the applications;

To investigate any violations of the Act; and

To adopt and promulgate rules, regulations, and procedures to administer the Act.

Section 6 would require the Commission to adopt and promulgate rules and regulations to establish minimum standards according to which institutions would be authorized to operate. Upon failure to operate according to such standards, would subject the institution to suspension or revocation of the authorization to operate. Institutions would be required to demonstrate the ability to be maintained and operated in accordance with the standards. The standards would be required to include, but not be limited to:

Financial soundness and capability to fulfill proposed commitments and sustain its operations;

Quality and adequacy of teaching faculty, library services, and support services;

Quality of the programs offered, including courses, programs of instruction, degrees, any necessary clinical placements, and the institution's ability to generate and sustain enrollment;

Specific locations where programs will be offered or planned locations and a demonstration that facilities are adequate;

Assurances regarding transfer of credits earned in the program to the main campus of such institution and clear and accurate representation about the transferability of credit to other institutions;

Whether the institution and programs are fully accredited, or seeking accreditation, by an accrediting body recognized by

the U.S. Department of Education;

Policies and procedures related to students, including, but not limited to, recruiting and admissions practices and tuition refund policy for institutions that do not participate in federal Title IV financial aid programs; and

Other standards deemed necessary by the Commission.

Section 7 would exempt institutions from the Act as follows:

Institutions or organizations which are licensed and regulated solely by an agency of the federal government with respect to curriculum and qualifications of instructional staff; and

Private postsecondary career schools as defined in the Private Postsecondary Career School Act.

Section 8 would prohibit any postsecondary institution from operating in Nebraska by establishing a physical presence in the state until it has received authorization to operate by the Commission.

Section 9 would prohibit institutions from charging tuition or fees for more than one academic term or requiring a student to sign loan documents for more than one academic term.

Section 10 would deem the following institutions to have authorization to operate on a continuing basis as of the effective date of the act:

Out-of-state public institutions with a physical presence that have, for at least 20 academic years, have continuously offered one or more 4 year undergraduate programs in Nebraska;

Private postsecondary institutions with a physical presence that have, for at least 20 academic years, have continuously offered one or more 4 year undergraduate programs in Nebraska under the same ownership; and

Nebraska public postsecondary institutions.

Nothing in the section would provide any additional authority to the Commission to regulate any institution deemed to have authorization to operate on a continuing basis.

Section 11 would require any postsecondary institution with a physical presence and not previously authorized to operate by the Commission or other state agency to apply to operate as a new institution on or before December 31, 2011. Institutions authorized to operate by the Commission prior to the effective date of the act and not deemed to have authority to operate on a continuing basis shall apply for a renewal of the authorization to operate between October 1, 2011, and December 31, 2011. Current authorizations will terminate on January 1, 2012 for institutions failing to apply for renewals on or before December 31, 2011. Any institution that has not established a physical presence as of the effective date of the act, would be required to apply for authorization to operate as a new institution and receive such authorization prior to commencing operations.

Section 12 would require the Commission to review and investigate as necessary applications for an authorization to operate or for renewal of an authorization to operate. A public hearing would also be required for initial applications. The Commission would then grant or deny applications. A grant would be on such terms and conditions as specified by the Commission. Initial authorizations could not exceed 5 years. Renewals would be for 5 years, unless the Commission determines a shorter renewal is appropriate based on the standards. Institutions that have operated for 20 years under the same ownership offering one or more 4 year undergraduate programs would be granted authorization to operate on a continuing basis, unless the Commission determines an additional review period is appropriate based on the standards.

Section 13 would require authorizations to operate to be in a form approved by the Commission and would state in a conspicuous manner at least the following information:

The date of issuance, effective date, and term of the authorization;

The full and correct name and address of the institution;

The authority for authorization to operate and the conditions thereof; and

Any limitations deemed necessary by the Commission.

Section 14 would require that any institution ceasing to meet any of the requirements be notified in writing of the specific deficiency by certified mail. A hearing would be scheduled requiring the institution to show cause why the authorization

should not be suspended or revoked. If the Commission determines that any requirements have been violated, the Commission could suspend or revoke the authorization or require action as a condition of continued authorization.

Section 15 would specify that authorizations be issued to the owner or governing body of the institution and would be nontransferable. If there is a change in ownership, the new owner would be required to apply for a new authorization within 30 days after the change. If the institution failed to apply within such time period, the original authorization would terminate. The application could be deemed an application for renewal of the institution's original authorization. Verification would be required that all student records were transferred intact and in good condition to the new owner.

Section 16 would require institutions to apply to renew authorizations at least 90 days prior to the expiration of the existing authorization. Financial stability information would accompany the application.

Section 17 would provide a right to a hearing and review to any institution denied an authorization to operate or an authorization to operate on a continuing basis. The aggrieved party to notify the Commission in writing within 10 business days after receipt of the denial notice. If the aggrieved party does not notify the Commission, the action would be deemed final. Upon receipt of notice from the aggrieved party, the Commission would fix the time and place for a hearing and notify the aggrieved party by certified mail. Commission decisions following a hearing would be final and subject to the right of judicial review. All matters presented at the hearing would be required to be acted upon promptly. The Commission would notify all parties in writing of its decision, which would include a statement of findings and conclusions upon all material issues of fact, law, or discretion and the appropriate rule, order, sanction, relief, or denial thereof.

Section 18 would allow any person claiming damage or loss as a result of any act or practice by an institution, which is a violation of the Act, to file a complaint against such institution with the Commission. The complaint would be required to set forth the alleged violation and contain other information as may be required by the Commission. Complaints could also be filed with the Commission by the executive director or Attorney General. If the complaint is not successfully resolved by the Commission, the Commission could hold a hearing. If the Commission finds a violation of the Act, the Commission would issue and cause to be served a cease and desist order. The Commission could also commence an action to revoke an authorization to operate if the institution does not have an authorization to operate on a continuing basis or to refer the complaint to the Attorney General.

Section 19 would authorize any person aggrieved or adversely affected by any final Commission action to appeal in accordance with the Administrative Procedure Act.

Section 20 would authorize the Attorney General or the county attorney of the county in which an institution is located to bring an action or proceeding to enforce the Act at the request of the Commission or on his or her own accord.

Section 21 would authorize the Commission to file a petition for injunction in a court of competent jurisdiction for the purpose of enjoining a violation or for an order directing compliance with the Act. The Commission would not be required to allege or prove that there is not adequate remedy at law. The right of injunction would be in addition to any other legal remedy and would be in addition to any right of criminal prosecution provided by law. The Commission would not obtain a temporary restraining order without notice to the entity affected. The pendency of Commission action with respect to alleged violations would not operate as a bar to an action for injunctive relief.

Section 22 relates to LB 334.

Section 23 would amend section 77-2704.12 by revising the sales and use tax exemption to apply to regionally or nationally accredited, nonprofit, privately controlled colleges and universities with primary campuses physically located in Nebraska, rather than nonprofit private colleges or universities established under the sections that would be outright repealed.

Section 24 relates to LB 372.

Section 25 relates to LB 372.

Section 26 would amend section 85-1412 by adding the administration of the Act to the Commission's duties and by eliminating duties that are, or would become, obsolete. The section would also be amended to incorporate the provisions from LB 58.

Section 27 would amend section 85-1604 by modifying the exemptions from the Private Postsecondary Career School Act. Schools and organizations that offer education that is not part of a degree program and which are licensed and regulated by agencies other than the Department of Education would be exempt. Currently such schools are exempt regardless of their degree granting status if they were being licensed and regulated by agencies other than the Department of Education as of September 2, 1977. The current language exempting not-for-profit institutions awarding baccalaureate or higher degrees and regionally accredited for-profit institutions from the Private Postsecondary Career School Act would be replaced with an exemption for all institutions offering or proposing to offer courses or programs leading to a baccalaureate degree or higher. The new exemption would cause institutions that offer baccalaureate degrees, but that are not regionally accredited, to be under the new Postsecondary Institution Act.

Section 28 would amend section 85-1620 by eliminating the procedure for schools to apply to the Department of Education to award baccalaureate degrees with the applications referred to the Commission for approval.

Section 29 would amend section 85-1643 by allowing the State Board of Education to establish a variable fee schedule based upon the prior school year's gross tuition revenue for renewals under the Private Postsecondary Career School Act. The section would also be amended by eliminating the fee for the initial authorization to offer a baccalaureate degree since that duty would be with the Commission under the new Act. Obsolete language would be eliminated.

Sections 85-1101 to 85-1111 would be outright repealed.

Section 85-1101 defines out-of-state institutions.

Section 85-1102 requires out-of-state institutions to register with the Commission.

Section 85-1103 provides the factors to be considered by the Commission in authorizing an out-of-state institution, allows fees to be charged, and allows for revocation or suspension of authorizations.

Section 85-1103.01 provides for the authorization for out-of-state institutions to provide courses or degrees via telecommunications within Nebraska.

Section 85-1103.02 requires a hearing on the applications for out-of-state institutions.

Section 85-1104 provides for a Class III misdemeanor for violating section 85-1101 to 85-1103.02.

Section 85-1105 provides for the establishment of a new private college or the extension into baccalaureate or higher degree programs.

Section 85-1106 provides for the petitions for the establishment of a new private college or extension into baccalaureate or higher degree programs.

Section 85-1107 requires a hearing for the establishment of a new private college or extension into baccalaureate or higher degree programs.

Section 85-1108 provides the factors to be considered by the Commission in authorizing a new private college or extension into baccalaureate or higher degree programs.

Section 85-1109 requires the Commission approve or disapprove petitions for the establishment of a new private college

or extension into baccalaureate or higher degree programs.

Section 85-1110 provides that approval of a petition authorizes the establishment of a new private college or extension into baccalaureate or higher degree programs and that disapproval does not.

Section 85-1110.01 provides for a Class III misdemeanor for violating section 85-110 to 85-1110.

Section 85-111 allows for provisional accreditation for a private college which has not previously been regionally accredited.

**\*LB 334 – Nebraska Optometry Student Contract Program**

Section 22 modifies section 38-2622, as amended by section 4 of LB 334 earlier this session, to expand eligibility for the Nebraska Optometry Student Contract Program to students who were accepted into the program during the 2010-11 academic year. LB 334 limited eligibility to only those students who participated in the program in the 2010-11 academic year.

**\*LB 372 – University Certificates**

Sections 24 and 25 contain the provisions of LB 372, which amends role and mission statutes that pertain to authority of the University of Nebraska and community colleges to offer associate degrees, diplomas, and certificates. The Education Committee advanced LB 372 to General File on a vote of 8-0.

Section 24 amends section 85-943 to enable the University to offer certificates in additional fields upon approval from the Coordinating Commission if the preponderance of the courses comprising any such certificate are above the associate-degree level. Section 85-943 currently limits the University's authority to offer associate degrees, diplomas, and certificates to specified fields, subject to approval by the Coordinating Commission for Postsecondary Education. The amendment also replaces existing use of the term certificates-in-course with the term certificates.

Section 25 amends section 85-961 to modify the level of courses that comprise associate degrees, diplomas, and certificates awarded by community colleges, in accordance with the changes proposed to section 85-943. Community colleges are currently authorized to award associate degrees, diplomas, and certificates in less than baccalaureate degree program areas. The amendment limits the award of associate degrees, diplomas and certificates by community colleges to those comprised of courses at the associate-degree level or below.

**\*LB 58 – Dual Credit and Career Academy Study**

Section 26 incorporates an amended version of LB 58 in addition to harmonizing with the Postsecondary Institution Act. The modified version of LB 58 amends section 85-1412 to require the Coordinating Commission for Postsecondary Education, in collaboration with the State Department of Education, public and private postsecondary education institutions, school districts, private secondary schools, and educational service units to conduct a study regarding the need for uniform policies and practices for dual-enrollment courses and career academies in Nebraska, including transferability of dual-enrollment courses and consistency of administration of career academies. The study would also include a review of any program that provides Nebraska high school students with the opportunity to earn college credit or advanced placement through participation in courses and examinations administered by a not-for-profit organization and of the need for uniform policies and practices related to the acceptance and transferability of such courses and the college credit or advanced placement earned as a result of a student's performance on such examinations. The Commission would be required to report the findings of such study and its recommendations, including recommendations for possible legislation, to the Legislature on or before December 15, 2011.

The amendment also removes obsolete language pertaining to a study of community colleges that was conducted by the Commission in 2009.

\*Emergency Clause

The Committee Amendments contains an emergency clause.

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Greg Adams, Chairperson