

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 546

Introduced by Kolowski, 31.

Read first time January 23, 2013

Committee: Education

A BILL

1 FOR AN ACT relating to universities and colleges; to amend sections
2 85-404 and 85-408, Reissue Revised Statutes of Nebraska,
3 and sections 85-1413, 85-1416, and 85-1418, Revised
4 Statutes Cumulative Supplement, 2012; to eliminate review
5 of certain capital construction projects as prescribed;
6 to harmonize provisions; to repeal the original sections;
7 and to outright repeal section 85-1415, Revised Statutes
8 Cumulative Supplement, 2012.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 85-404, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 85-404 Either of the boards referred to in section 85-403
4 is hereby specifically authorized and empowered, by resolution or
5 agreement, to pledge all or any part of the revenue and fees derived
6 from the operation of the dormitories, residence halls, single-
7 dwelling or multiple-dwelling units, buildings, and facilities for
8 parking and other facilities for housing, boarding, athletic
9 purposes, medical care, and physical development and other activities
10 of students, faculties, or employees of such institutions referred to
11 in section 85-403, or any of them, erected or acquired, or previously
12 erected or acquired by such board, and contract as to the care,
13 insurance, management, and operation of such buildings and facilities
14 and the charges to be made and the rights of the holders of the
15 revenue bonds. When the board contracts that the operation of any
16 building or facility or part thereof shall be performed other than by
17 the board itself, the board shall at all times maintain supervision
18 thereof and control over the fees and charges imposed for the use
19 thereof.

20 ~~When such board proposes to pledge all or any part of the~~
21 ~~revenue and fees from buildings and facilities other than the~~
22 ~~building or facility to be constructed, the plans for such building~~
23 ~~or facility to be constructed, including financing plans, shall first~~
24 ~~be reviewed by the Coordinating Commission for Postsecondary~~
25 ~~Education as provided in section 85-1415 and approved or disapproved~~

1 ~~by the Legislature or, if the Legislature is not in session, the~~
2 ~~Executive Board of the Legislative Council as provided in such~~
3 ~~section.~~

4 Sec. 2. Section 85-408, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 85-408 The boards are authorized and directed to
7 establish and maintain such schedule of rates, fees, or charges for
8 the use of the facilities afforded by the buildings constructed or
9 acquired under sections 85-401 to 85-411 and other facilities
10 controlled by such board, the revenue of which in whole or in part is
11 pledged to the holder of the bonds, which shall be in an amount at
12 least sufficient on the amortization plan to pay the operating and
13 maintenance charges thereof and the principal and interest
14 representing the indebtedness against the income and revenue
15 therefrom and may be sufficient in amount to provide for such bond
16 reserve, replacement, and surplus funds as the boards in their
17 discretion shall determine. The amounts in such funds shall be
18 expended for such purposes in connection with the facilities as the
19 boards shall determine, and any amount in any surplus or replacement
20 fund and any amounts received through the sale, condemnation, or
21 destruction of any facilities may be used to construct, repair, or
22 replace any of the types of facilities described in section 85-403.
23 Any amounts in such funds are specifically appropriated to the
24 purposes of such funds and shall at all times be subject to the
25 orders of the boards accordingly.

1 ~~Before any single expenditure in excess of five hundred~~
2 ~~thousand dollars is made from any such surplus or replacement fund,~~
3 ~~the board concerned shall first submit such proposed expenditure to~~
4 ~~the Coordinating Commission for Postsecondary Education for review as~~
5 ~~provided in section 85-1415 and secure the approval of the~~
6 ~~Legislature or, if the Legislature is not in session, of the~~
7 ~~Executive Board of the Legislative Council as provided in such~~
8 ~~section.~~

9 Sec. 3. Section 85-1413, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 85-1413 (1) Pursuant to the authority granted in Article
12 VII, section 14, of the Constitution of Nebraska and the Coordinating
13 Commission for Postsecondary Education Act, the commission shall
14 establish and revise as needed a comprehensive statewide plan for
15 postsecondary education which shall include (a) definitions of the
16 role and mission of each public postsecondary educational institution
17 within any general assignments of role and mission as prescribed in
18 sections 85-917 to 85-966 and (b) a plan for facilities which utilize
19 tax funds designated by the Legislature.

20 (2) The planning process of the commission (a) shall be
21 policy-based and ongoing in order to achieve, within the coordination
22 function of the commission pursuant to section 85-1403, the best
23 possible use of available state resources for high quality and
24 accessible postsecondary educational services and (b) shall take into
25 consideration (i) the needs of the state as described in subsection

1 (3) of this section, (ii) general assignments of role and mission for
2 each public institution in sections 85-917 to 85-966, and (iii) plans
3 for facilities which utilize tax funds designated by the Legislature.

4 (3) In establishing the plan, the commission shall assess
5 the postsecondary educational needs of the state in the following
6 areas:

7 (a) The basic and continuing needs of various age groups;

8 (b) Business and industrial needs for a skilled work
9 force;

10 (c) Demographic, social, and economic trends;

11 (d) The needs of the ethnic populations;

12 (e) College attendance, retention, and dropout rates;

13 (f) The needs of recent high school graduates and place-
14 bound adults;

15 (g) The needs of residents of all geographic regions; and

16 (h) Any other areas the commission may designate.

17 (4) The plan shall provide a structure or process which
18 encourages and facilitates harmonious and cooperative relationships
19 between public and private postsecondary educational institutions and
20 shall recognize the role and relationship of elementary and secondary
21 education and private postsecondary educational institutions in the
22 state to postsecondary education.

23 (5) The commission shall incorporate into the plan
24 provisions and policies to guide decisionmaking by the commission
25 pursuant to this section and ~~sections 85-1414 and 85-1415.~~ section

1 85-1414. The provisions and policies shall address issues which
2 include, but are not limited to:

3 (a) The facilitation of statewide transfer-of-credit
4 guidelines to be considered by institutional governing boards. The
5 statewide transfer-of-credit guidelines shall be designed to
6 facilitate the transfer of students among public institutions. The
7 statewide transfer-of-credit guidelines shall not require nor
8 encourage the standardization of course content and shall not
9 prescribe course content or credit value assigned by any public
10 institution to the courses;

11 (b) Recommended guidelines for admissions which recognize
12 selective and differentiated admission standards at public
13 institutions and which are consistent with the role and mission of
14 each public institution. It is the intent of the Legislature that
15 changes in admission standards be implemented in conjunction with the
16 role and mission statements established pursuant to this section and
17 sections 85-917 to 85-966 and the adoption of statewide transfer-of-
18 credit and remedial program policies to assure that access to
19 postsecondary education is not limited;

20 (c) Recommended enrollment guidelines consistent with the
21 role and mission of each public institution and specific
22 recommendations designed to increase diversity through more effective
23 enrollment and retention at public institutions;

24 (d) Recommended guidelines for rational and equitable
25 statewide tuition rates and fees for public institutions. The

1 commission shall identify public policy issues relating to tuition
2 and fees of the public postsecondary educational institutions in the
3 state. The recommended guidelines shall take into account the role
4 and mission of each public institution and the need to maximize
5 access to public postsecondary education regardless of a student's
6 financial circumstance;

7 (e) In conjunction with and consistent with its
8 recommended guidelines on admission standards, recommended guidelines
9 which place the primary emphasis at the community college level for
10 postsecondary education remedial programs and reduce the role of the
11 University of Nebraska in offering remedial programs. The commission
12 shall collaborate with the Commissioner of Education to develop
13 recommendations for secondary schools designed to reduce the need for
14 remedial or developmental programs at the postsecondary level;

15 (f) In consultation with the governing boards or their
16 designated representatives, designation of geographic and
17 programmatic service areas for each public institution consistent
18 with role and mission assignments. Except as permitted by the
19 commission pursuant to section 85-1414, no public institution shall
20 provide programs at any site outside its assigned geographic and
21 programmatic service area unless permitted under rules and
22 regulations adopted and promulgated by the commission;

23 (g) After consultation with the governing boards and
24 experts from outside the State of Nebraska, the establishment of a
25 peer group or groups for each public institution for purposes of

1 budget review. In fulfilling this charge, the commission may accept a
2 peer group determined by a governing board in consultation with out-
3 of-state experts;

4 (h) Effective use of information technologies and
5 telecommunications to aid in the delivery of instruction at the
6 postsecondary level. In cooperation with the Nebraska Educational
7 Telecommunications Commission, other state agencies, and, when
8 appropriate, representatives of elementary and secondary public
9 education, the commission may assist in the development of
10 instructional delivery systems employing information technologies and
11 telecommunications. The commission, with the involvement of
12 faculties, public institutions and private postsecondary educational
13 institutions, and the information technology and telecommunications
14 community, shall establish policies to ensure that the objectives of
15 quality and efficiency are met in the delivery of information
16 technology and telecommunications-aided instruction;

17 (i) Workforce development. The commission shall explore
18 methods to improve the competitive quality of the work force and
19 shall encourage enhanced communications and partnerships between
20 public institutions and business and industry;

21 (j) Public service activities. The public institutions
22 shall develop and provide to the commission a comprehensive inventory
23 of public service programs and activities of public institutions; and

24 (k) Financial aid strategy. The commission shall develop
25 a state strategy for state-supported student financial aid programs

1 with the goal of assuring access to and choice in postsecondary
2 education in Nebraska for Nebraska residents within the limits of
3 available state resources.

4 (6) The commission shall develop a unified statewide
5 facilities plan in consultation with the governing boards or their
6 designated representatives and update the plan periodically.

7 (7) Prior to March 15 of the year following a year in
8 which any revision is made to the comprehensive statewide plan, the
9 Education Committee of the Legislature shall review the comprehensive
10 statewide plan and revisions thereto at a public hearing and report
11 its findings electronically to the Legislature.

12 Sec. 4. Section 85-1416, Revised Statutes Cumulative
13 Supplement, 2012, is amended to read:

14 85-1416 (1) Pursuant to the authority granted in Article
15 VII, section 14, of the Constitution of Nebraska and the Coordinating
16 Commission for Postsecondary Education Act, the commission shall, in
17 accordance with the coordination function of the commission pursuant
18 to section 85-1403, review and modify, if needed to promote
19 compliance and consistency with the comprehensive statewide plan and
20 prevent unnecessary duplication, the budget requests of the governing
21 boards.

22 (2)(a) At least thirty days prior to submitting to the
23 Governor their biennial budget requests pursuant to section 81-1113
24 and any major deficit appropriation requests pursuant to instructions
25 of the Department of Administrative Services, the Board of Regents of

1 the University of Nebraska and the Board of Trustees of the Nebraska
2 State Colleges shall each submit to the commission an outline of its
3 proposed operating budget. The outline of its proposed operating
4 budget or outline of proposed state aid request shall include those
5 information summaries provided to the institution's governing board
6 describing the respective institution's budget for the next fiscal
7 year or biennium. The outline shall contain projections of funds
8 necessary for (i) the retention of current programs and services at
9 current funding levels, (ii) any inflationary costs necessary to
10 maintain current programs and services at the current programmatic or
11 service levels, and (iii) proposed new and expanded programs and
12 services. In addition to the outline, the commission may request an
13 institution to provide to the commission any other supporting
14 information to assist the commission in its budget review process. An
15 institution may comply with such requests pursuant to section
16 85-1417.

17 (b) On September 15 of each biennial budget request year,
18 the boards of governors of the community colleges or their designated
19 representatives shall submit to the commission outlines of their
20 proposed state aid requests.

21 (c) The commission shall analyze institutional budget
22 priorities in light of the comprehensive statewide plan, role and
23 mission assignments, and the goal of prevention of unnecessary
24 duplication. The commission shall submit to the Governor and
25 Legislature by October 15 of each year recommendations for approval

1 or modification of the budget requests together with a rationale for
2 its recommendations. The recommendations submitted to the Legislature
3 shall be submitted electronically. The analysis and recommendations
4 by the commission shall focus on budget requests for new and expanded
5 programs and services and major statewide funding issues or
6 initiatives as identified in the comprehensive statewide plan. If an
7 institution does not comply with the commission's request pursuant to
8 subdivision (a) of this subsection for additional budget information,
9 the commission may so note the refusal and its specific information
10 request in its report of budget recommendations. The commission shall
11 also provide to the Governor and the Appropriations Committee of the
12 Legislature on or before October 1 of each even-numbered year a
13 report identifying public policy issues relating to student tuition
14 and fees, including the appropriate relative differentials of tuition
15 and fee levels between the sectors of public postsecondary education
16 in the state consistent with the comprehensive statewide plan. The
17 report submitted to the committee shall be submitted electronically.

18 (3) At least thirty days prior to submitting to the
19 Governor their biennial budget requests pursuant to section 81-1113
20 and any major deficit appropriation requests pursuant to instructions
21 of the Department of Administrative Services, the Board of Regents of
22 the University of Nebraska and the Board of Trustees of the Nebraska
23 State Colleges shall each submit to the commission information the
24 commission deems necessary regarding each board's capital
25 construction budget requests. The commission shall review the capital

1 construction budget request information and may recommend to the
2 Governor and the Legislature modification, approval, or disapproval
3 of such requests consistent with the statewide facilities plan and
4 any project approval determined pursuant to subsection (10) of
5 section 85-1414, ~~and to section 85-1415.~~ The recommendations
6 submitted to the Legislature shall be submitted electronically. The
7 commission shall develop from a statewide perspective a unified
8 prioritization of individual capital construction budget requests for
9 which it has recommended approval and submit such prioritization to
10 the Governor and the Legislature for their consideration. The
11 prioritization submitted to the Legislature shall be submitted
12 electronically. In establishing its prioritized list, the commission
13 may consider and respond to the priority order established by the
14 Board of Regents or the Board of Trustees in their respective capital
15 construction budget requests.

16 (4) Nothing in this section shall be construed to affect
17 other constitutional, statutory, or administrative requirements for
18 the submission of budget or state aid requests by the governing
19 boards to the Governor and the Legislature.

20 Sec. 5. Section 85-1418, Revised Statutes Cumulative
21 Supplement, 2012, is amended to read:

22 85-1418 (1) No state warrant shall be issued by the
23 Department of Administrative Services or used by any public
24 institution for the purpose of funding any program or capital
25 construction project which has not been approved or which has been

1 disapproved by the commission pursuant to the Coordinating Commission
2 for Postsecondary Education Act. If state funding for any such
3 program or project cannot be or is not divided into warrants separate
4 from other programs or projects, the department shall reduce a
5 warrant to the public institution which includes funding for the
6 program or project by the amount of tax funds designated by the
7 Legislature which are budgeted in that fiscal year by the public
8 institution for use for the program or project.

9 (2) The department may reduce the amount of state aid
10 distributed to a community college area pursuant to the Community
11 College Aid Act, or for fiscal years 2010-11, 2011-12, and 2012-13
12 pursuant to section 90-517, by the amount of funds used by the area
13 to provide a program or capital construction project which has not
14 been approved or which has been disapproved by the commission.

15 (3) The district court of Lancaster County shall have
16 jurisdiction to enforce an order or decision of the commission
17 entered pursuant to the Coordinating Commission for Postsecondary
18 Education Act and to enforce this section.

19 (4) Any person or public institution aggrieved by a final
20 order of the commission entered pursuant to section 85-1413, 85-1414,
21 ~~85-1415,~~ or 85-1416 shall be entitled to judicial review of the
22 order. Proceedings for review shall be instituted by filing a
23 petition in the district court of Lancaster County within thirty days
24 after public notice of the final decision by the commission is given.
25 The filing of the petition or the service of summons upon the

1 commission shall not stay enforcement of such order. The review shall
2 be conducted by the court without a jury on the record of the
3 commission. The court shall have jurisdiction to enjoin enforcement
4 of any order of the commission which is (a) in violation of
5 constitutional provisions, (b) in excess of the constitutional or
6 statutory authority of the commission, (c) made upon unlawful
7 procedure, or (d) affected by other error of law.

8 (5) A party may secure a review of any final judgment of
9 the district court by appeal to the Court of Appeals. Such appeal
10 shall be taken in the manner provided by law for appeals in civil
11 cases and shall be heard de novo on the record.

12 Sec. 6. Original sections 85-404 and 85-408, Reissue
13 Revised Statutes of Nebraska, and sections 85-1413, 85-1416, and
14 85-1418, Revised Statutes Cumulative Supplement, 2012, are repealed.

15 Sec. 7. The following section is outright repealed:
16 Section 85-1415, Revised Statutes Cumulative Supplement, 2012.