

LEGISLATIVE BILL 211

Approved by the Governor June 4, 2013

Introduced by Adams, 24.

FOR AN ACT relating to community colleges; to amend sections 85-1412, 85-1418, 85-1502, 85-1539, 85-1540, 85-2233, and 85-2234, Revised Statutes Cumulative Supplement, 2012; to change and provide duties for the Coordinating Commission for Postsecondary Education; to change and eliminate provisions relating to statewide coordination of community college boards; to provide a duty relating to membership on a committee as prescribed; to change provisions relating to distribution of state aid and grants; to provide an operative date; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 85-1412, Revised Statutes Cumulative Supplement, 2012, is amended to read:

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

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

(2) Recommend to the Legislature and the Governor legislation it deems necessary or appropriate to improve postsecondary education in Nebraska and any other legislation it deems appropriate to change the role and mission provisions in sections 85-917 to 85-966.01. The recommendations submitted to the Legislature shall be submitted electronically;

(3) Establish any advisory committees as may be necessary to undertake the coordination function of the commission pursuant to section 85-1403 or to solicit input from affected parties such as students, faculty, governing boards, administrators of the public institutions, administrators of the private nonprofit institutions of postsecondary education and proprietary institutions in the state, and community and business leaders regarding the coordination function of the commission;

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

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

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

(7) Administer (a) the Access College Early Scholarship Program Act, (b) the Community College Aid Act, (c) the Nebraska Community College Student Performance and Occupational Education Grant Fund under the direction of the Nebraska Community College Student Performance and Occupational Education Grant Committee, (d) the Nebraska Opportunity Grant Act, and (e) the Postsecondary Institution Act;

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

(9) On or before December 1 of each even-numbered year, submit to

the Legislature and the Governor a report of its objectives and activities and any new private colleges in Nebraska and the implementation of any recommendations of the commission for the preceding two calendar years. The report submitted to the Legislature shall be submitted electronically;

(10) Provide staff support for interstate compacts on postsecondary education; and

(11) Request inclusion of the commission in any existing grant review process and information system.

Sec. 2. Section 85-1418, Revised Statutes Cumulative Supplement, 2012, is amended to read:

85-1418 (1) No state warrant shall be issued by the Department of Administrative Services or used by any public institution for the purpose of funding any program or capital construction project which has not been approved or which has been disapproved by the commission pursuant to the Coordinating Commission for Postsecondary Education Act. If state funding for any such program or project cannot be or is not divided into warrants separate from other programs or projects, the department shall reduce a warrant to the public institution which includes funding for the program or project by the amount of tax funds designated by the Legislature which are budgeted in that fiscal year by the public institution for use for the program or project.

(2) ~~The~~ Until July 1, 2013, the department may reduce the amount of state aid distributed to a community college area pursuant to the Community College Aid Act, or for fiscal years 2010-11, 2011-12, and 2012-13 pursuant to section 90-517, by the amount of funds used by the area to provide a program or capital construction project which has not been approved or which has been disapproved by the commission.

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

(4) Any person or public institution aggrieved by a final order of the commission entered pursuant to section 85-1413, 85-1414, 85-1415, or 85-1416 shall be entitled to judicial review of the order. Proceedings for review shall be instituted by filing a petition in the district court of Lancaster County within thirty days after public notice of the final decision by the commission is given. The filing of the petition or the service of summons upon the commission shall not stay enforcement of such order. The review shall be conducted by the court without a jury on the record of the commission. The court shall have jurisdiction to enjoin enforcement of any order of the commission which is (a) in violation of constitutional provisions, (b) in excess of the constitutional or statutory authority of the commission, (c) made upon unlawful procedure, or (d) affected by other error of law.

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

Sec. 3. Section 85-1502, Revised Statutes Cumulative Supplement, 2012, is amended to read:

85-1502 (1) It is the intent of the Legislature that a clear distinction between area governance and statewide coordination for the community college areas be recognized and that such coordination is appropriate in order to provide the most cost-effective programs for residents of each community college area. It is further the intent of the Legislature that coordination of the community colleges by the Coordinating Commission for Postsecondary Education be conducted as provided in Article VII, section 14, of the Constitution of Nebraska and the Coordinating Commission for Postsecondary Education Act. It is further the intent of the Legislature that such coordination not be conducted through a board or association representing all the community colleges and that membership in any boards or associations of community colleges be voluntary. ~~through an association of the boards.~~

(2) The board of governors of any community college area may pay from college funds an amount to be determined by the board of governors for membership in boards or associations of community colleges.

~~(2) Through June 30, 2011, all of the boards shall be a part of and shall be represented by such association. Coordination services provided by such association shall include (a) preparation of a system strategic plan, (b) coordination of the budget request for the biennium, (c) facilitation of program-needs assessment and articulation, (d) recommendation and facilitation of the appointment of representatives to committees, boards, commissions, task forces, and any other state-level bodies requesting or requiring participation from the community college system, and (e) facilitation of responses to data~~

and information requests for the system.

~~(3) All activities conducted pursuant to this section by such association shall be conducted in accordance with the Open Meetings Act.~~

~~(4) (3) Nothing in this section shall be construed to require or provide for state control of the operations of any community college area or to abridge the governance ability, rights, or responsibilities of any board. Nothing in this section shall be construed to limit the ability or authority of the commission to fulfill its responsibilities and duties regarding the individual community college areas and the individual community college area campuses.~~

Sec. 4. Section 85-1539, Revised Statutes Cumulative Supplement, 2012, is amended to read:

85-1539 (1) There is hereby created the Nebraska Community College Student Performance and Occupational Education Grant Committee. The committee shall consist of (1) (a) a representative of the Coordinating Commission for Postsecondary Education who shall serve as chairperson of the committee, ~~(2) (b) a representative of the Department of Economic Development, (3) (c) a representative of the Department of Labor, (4) (d) a representative of the State Department of Education, (5) (e) a representative affiliated with one of the two community college areas with the two smallest full-time equivalent student enrollment totals for the most recent fiscal year, (6) (f) a representative affiliated with one of the two community college areas with the two largest full-time equivalent student enrollment totals for the most recent fiscal year, and (7) (g) a representative affiliated with one of the two community college areas not included in the categories provided in subdivisions (5) (1)(e) and (6) (f) of this section. Each member shall be appointed by the agency or community college areas being represented. The representatives appointed pursuant to subdivisions (5) (1)(e) through (7) (g) of this section shall serve terms of two years and shall be succeeded by a representative affiliated with the community college areas not represented for the preceding term.~~

(2) The committee shall develop guidelines for and annually determine the allocation of the Nebraska Community College Student Performance and Occupational Education Grant Fund and any other funds appropriated to Program 99 in Agency 83, Aid to Community Colleges, pursuant to this section and section 85-1540, aid or grants to the community colleges for (a) applied technology and occupational faculty training, instructional equipment upgrades, employee assessment, preemployment training, employment training, and dislocated worker programs benefiting the State of Nebraska or (b) programs or activities to enhance (i) student performance in the areas of degree, certificate, or diploma completion, retention, or foundations education as defined in section 85-932.01 or (ii) the collection, reporting, analysis, and utilization of student data. The total amount allocated for a fiscal year shall not exceed the amounts appropriated from the fund Nebraska Community College Student Performance and Occupational Education Grant Fund and such other funds as may be appropriated by the Legislature for purposes of this section for such fiscal year. The commission shall certify the allocation determined by the committee on or before September 10 of the fiscal year for which such allocation is being certified and shall report such allocation to the Department of Administrative Services. The department commission shall distribute the total of such appropriated and allocated funds to the selected community college board or boards in a single payment between the fifth and twentieth day of October of the fiscal year for which such allocation is certified, each year.

(3) Applications for aid or grants pursuant to this section may be submitted by a community college area independently or in collaboration with other community college areas.

Sec. 5. Section 85-1540, Revised Statutes Cumulative Supplement, 2012, is amended to read:

85-1540 ~~(1) There is hereby created the Nebraska Community College Student Performance and Occupational Education Grant Fund. The fund shall be under the direction of the Nebraska Community College Student Performance and Occupational Education Grant Committee and shall be administered by the Coordinating Commission for Postsecondary Education. The fund shall consist of money received by the state in the form of grants or gifts from nonfederal sources, such other amounts as may be transferred or otherwise accrue to the fund, and any investment income earned on the fund. The fund shall contain any amount available for transfer pursuant to subdivision (2) of section 85-2234 and such other amounts as may be transferred or otherwise accrue to the fund. The fund shall be used to provide aid or grants to the community colleges for (a) applied technology and occupational faculty training, instructional equipment upgrades, employee assessment, preemployment training, employment~~

training, and dislocated worker programs benefiting the State of Nebraska or (b) programs or activities to enhance (i) student performance in the areas of degree, certificate, or diploma completion, retention, or foundations education as defined in section 85-932.01 or (ii) the collection, reporting, analysis, and utilization of student data, pursuant to section 85-1539. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

~~(2) Applications for aid or grants pursuant to this section may be submitted by a community college area independently or in collaboration with other community college areas.~~

Sec. 6. Section 85-2233, Revised Statutes Cumulative Supplement, 2012, is amended to read:

85-2233 (1) (a) The Legislature recognizes that education, as an investment in human resources, is fundamental to the quality of life and the economic prosperity of Nebraskans and that aid to the community colleges furthers these goals.

(b) It is the intent of the Legislature that such appropriations reflect the commitment of the Legislature to join with local governing bodies in a strong and continuing partnership to further advance the quality, responsiveness, access, and equity of Nebraska's community colleges and to foster high standards of performance and service so that every citizen, community, and business will have the opportunity to receive quality educational programs and services regardless of the size, wealth, or geographic location of the community college area or tribally controlled community college by which that citizen, community, or business is served.

(c) In order to promote quality postsecondary education and to avoid excessive and disproportionate taxation upon the taxable property of each community college area, the Legislature may appropriate each biennium from such funds as may be available an amount for aid and assistance to the community colleges. Such funds so appropriated by the Legislature shall be allocated, adjusted, and distributed to the community college boards of governors as provided in the Community College Aid Act.

(2) The Coordinating Commission for Postsecondary Education shall certify aid amounts attributable to the allocations pursuant to subdivisions (1) and (3) of section 85-2234 and report such amounts to the Department of Administrative Services. The commission shall certify such aid amounts on or before September 1 of the fiscal year for which aid is being certified. ~~The department and shall distribute the total of such appropriated and allocated funds to the boards in ten as nearly as possible equal monthly payments between the fifth and twentieth day of each month beginning in September of each year. Any amount transferred to the Nebraska Community College Student Performance and Occupational Education Grant Fund pursuant to subdivision (2) of section 85-2234 for a fiscal year shall be certified and distributed in accordance with sections 85-1539 and 85-1540.~~

(3) ~~The department~~ Beginning July 1, 2013, the commission shall reduce the amount of the distribution to a board by the amount of funds used by the community college area to provide a program or capital construction project as defined in section 85-1402 which has not been approved or has been disapproved by the Coordinating Commission for Postsecondary Education pursuant to the Coordinating Commission for Postsecondary Education Act.

Sec. 7. Section 85-2234, Revised Statutes Cumulative Supplement, 2012, is amended to read:

85-2234 Aid appropriated pursuant to the Community College Aid Act for fiscal year 2013-14 and each fiscal year thereafter shall be allocated among community college areas and tribally controlled community colleges as follows:

(1) The initial \$87,870,147 appropriated pursuant to the act shall be allocated to community college areas based on the proportionate share of aid received by each community college area for fiscal year 2012-13. If the amount appropriated for such fiscal year exceeds \$87,870,147, the excess amount shall be allocated as provided in subdivisions (2) and (3) of this section. If the amount appropriated for such fiscal year is less than or equal to \$87,870,147, the amount appropriated shall be allocated to community college areas based on the proportionate share of aid received by each community college area for fiscal year 2012-13;

(2) Of any amount remaining after the allocation of aid pursuant to subdivision (1) of this section, the next amount, up to but not to exceed \$500,000, shall be ~~transferred to the Nebraska Community College Student Performance and Occupational Education Grant Fund provided for in section 85-1540;~~ allocated as state aid pursuant to section 85-1539; and

(3) Any amount remaining after the allocations provided for in

subdivisions (1) and (2) of this section shall be allocated among the community college areas on the following basis:

(a) Twenty-five percent of such amount shall be divided equally based on the number of community college areas designated pursuant to section 85-1504;

(b) Forty-five percent of such amount shall be divided based on each community college area's proportionate share of three-year average full-time equivalent student enrollment. A community college area's proportionate share of three-year average full-time equivalent student enrollment shall equal the sum of a community college area's full-time equivalent student enrollment total for the three fiscal years immediately preceding the fiscal year for which aid is being calculated divided by three, with such quotient divided by the quotient resulting from the sum of the full-time equivalent student enrollment total of all community college areas for the three fiscal years immediately preceding the fiscal year for which aid is being calculated divided by three; and

(c) Thirty percent of such amount shall be divided based on each community college area's proportionate share of three-year average reimbursable educational units. A community college area's proportionate share of three-year average reimbursable educational units shall equal the sum of a community college area's reimbursable educational unit total for the three fiscal years immediately preceding the fiscal year for which aid is being calculated divided by three, with such quotient divided by the quotient resulting from the sum of the reimbursable educational unit total of all community college areas for the three fiscal years immediately preceding the fiscal year for which aid is being calculated divided by three.

Sec. 8. This act becomes operative on July 1, 2013.

Sec. 9. Original sections 85-1412, 85-1418, 85-1502, 85-1539, 85-1540, 85-2233, and 85-2234, Revised Statutes Cumulative Supplement, 2012, are repealed.

Sec. 10. Since an emergency exists, this act takes effect when passed and approved according to law.