

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 440
FINAL READING
(SECOND)

Introduced by Council, 11; Cook, 13.

Read first time January 20, 2009

Committee: Education

A BILL

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

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

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

3 85-9,178 (1) The Legislature finds that the State of
4 Nebraska has a compelling interest to provide access to the
5 University of Nebraska, the state colleges, and the community
6 colleges for students from diverse ~~racial, ethnic, and cultural~~
7 backgrounds who often find that the financial requirements of
8 postsecondary education are a major obstacle. The Legislature
9 further finds that the State of Nebraska has a compelling interest
10 in attaining greater diversity in the ~~racial, ethnic, and cultural~~
11 makeup of the student bodies at the University of Nebraska,
12 the state colleges, and the community colleges because of the
13 educational benefits that a diverse educational environment will
14 produce for all students attending the University of Nebraska, the
15 state colleges, and the community colleges.

16 (2) It is the intent of the Legislature:

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

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

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

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

12 85-9,182 Criteria for the award of scholarships under
13 the Student Diversity Scholarship Program Act shall be determined
14 in accordance with state and federal law by a committee selected
15 by the Board of Regents of the University of Nebraska, the Board
16 of Trustees of the Nebraska State Colleges, and the community
17 college boards of governors. The committee shall include members ~~of~~
18 underrepresented minority from diverse groups and private donors to
19 the endowed scholarship funds. Awards shall be consistent with the
20 intent stated in the act and with the constitutions and laws of the
21 United States and the State of Nebraska.

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

24 85-1402 For purposes of the Coordinating Commission for
25 Postsecondary Education Act:

1 (1) (a) Capital construction project shall mean a project
2 which utilizes tax funds designated by the Legislature and shall
3 be: Any proposed new capital structure; any proposed addition
4 to, renovation of, or remodeling of a capital structure; any
5 proposed acquisition of a capital structure by gift, purchase,
6 lease-purchase, or other means of construction or acquisition that
7 (i) will be directly financed in whole or in part with tax funds
8 designated by the Legislature totaling at least the minimum capital
9 expenditure for purposes of this subdivision or (ii) is likely,
10 as determined by the institution, to result in an incremental
11 increase in appropriation or expenditure of tax funds designated
12 by the Legislature of at least the minimum capital expenditure for
13 the facility's operations and maintenance costs in any one fiscal
14 year within a period of ten years from the date of substantial
15 completion or acquisition of the project. No tax funds designated
16 by the Legislature shall be appropriated or expended for any
17 incremental increase of more than the minimum capital expenditure
18 for the costs of the operations and utilities of any facility
19 which is not included in the definition of capital construction
20 project and thus is not subject to commission approval pursuant
21 to the Coordinating Commission for Postsecondary Education Act. No
22 institution shall include a request for funding such an increase
23 in its budget request for tax funds designated by the Legislature
24 nor shall any institution utilize any such funds for such an
25 increase. The Governor shall not include in his or her budget

1 recommendations, and the Legislature shall not appropriate, such
2 funds for such increase.

3 (b) For purposes of this subdivision:

4 (i) Directly financed shall mean funded by:

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

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

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

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

20 (iii) Minimum capital expenditure shall mean:

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

24 (B) For the facility's operations and maintenance costs
25 pursuant to subdivision (a)(ii) of this subdivision, a base amount

1 of ~~seventy-five~~ eighty-five thousand dollars for any one fiscal
2 year.

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

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

16 (3) Coordination shall mean:

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

24 (b) Authority to review, monitor, and approve or
25 disapprove each public postsecondary educational institution's

1 programs and capital construction projects which utilize tax funds
2 designated by the Legislature in order to provide compliance and
3 consistency with the comprehensive plan and to prevent unnecessary
4 duplication; and

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

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

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

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

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

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

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

10 Sec. 4. Original sections 85-9,178, 85-9,182, and
11 85-1402, Reissue Revised Statutes of Nebraska, are repealed.