

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 977

Introduced by Mello, 5; Haar, 21.

Read first time January 19, 2010

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to state buildings; to amend sections
2 81-1114.02 and 85-1414, Reissue Revised Statutes of
3 Nebraska; to require new state buildings and renovations
4 to comply with energy efficiency standards; to harmonize
5 provisions; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Beginning January 1, 2011, each new state
2 building greater than five thousand gross square feet in size and
3 each renovation of a state building greater than five thousand
4 gross square feet in size for which the cost of renovation
5 exceeds fifty percent of the value of the building shall achieve
6 LEED silver certification. If there is a conflict between LEED
7 silver certification and the 2003 International Energy Conservation
8 Code made applicable to state buildings by section 72-805, the
9 more stringent standard shall apply. This section applies to
10 state agencies, state colleges, and the University of Nebraska.
11 For purposes of this section, LEED silver certification means
12 the silver-level certification established by the Green Building
13 Council, as such standard exists on January 1, 2010.

14 Sec. 2. Section 81-1114.02, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 81-1114.02 Any state agency, prior to bidding a capital
17 construction project with a total project cost exceeding the
18 limit established by the Department of Administrative Services
19 in accordance with section 81-1114.01 or a project subject to
20 section 1 of this act, shall submit proposed construction documents
21 to the state building division for review. The state building
22 division shall review the construction documents and submit
23 comments to the budget division, the Legislative Fiscal Analyst,
24 and the affected agencies. Comments shall include identification of
25 possible cost and design alternatives and a determination whether

1 the construction documents are consistent with approved program
2 statements and section 1 of this act. The state building division
3 shall, by rules and regulations, establish the elements to be
4 included in the construction documents. Comments and reviews of
5 construction documents shall be completed within thirty days after
6 such documents are submitted to the state building division. No
7 funds shall be expended on actual construction until construction
8 documents have been approved by the state building division. A copy
9 of the approval or disapproval shall be forwarded to the requesting
10 agency, the budget division, and the Legislative Fiscal Analyst.

11 Sec. 3. Section 85-1414, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 85-1414 (1) Pursuant to the authority granted in
14 Article VII, section 14, of the Constitution of Nebraska and
15 the Coordinating Commission for Postsecondary Education Act, the
16 commission shall establish an ongoing process to review, monitor,
17 and approve or disapprove the new and existing programs of public
18 institutions and proposed capital construction projects which
19 utilize tax funds designated by the Legislature in order to
20 provide compliance and consistency with the comprehensive statewide
21 plan and to prevent unnecessary duplication. When complying
22 with requests for information during the review, monitoring,
23 and approval process, public institutions may comply pursuant to
24 section 85-1417.

25 (2)(a) Governing boards shall submit to the commission

1 all proposals for any new program after the governing board has
2 approved the program and prior to implementation of the program.
3 Except for programs submitted for conditional approval by the
4 commission pursuant to subdivision (b) of this subsection, the
5 commission shall have ninety days from the date the program
6 was submitted to take action to approve or disapprove a program
7 or it shall stand approved. The commission shall establish a
8 waiver process for specific, short-term job training programs and
9 short-term public service programs as defined by the commission.
10 New programs submitted for review may be approved or disapproved
11 in whole or in part and with or without recommended modifications
12 based on criteria established pursuant to subsection (7) of this
13 section.

14 (b) After approval of the program by the governing board,
15 the governing board may submit a proposal for a program which
16 is not authorized by the role and mission provisions of sections
17 85-917 to 85-966 to the commission for conditional approval. Within
18 one hundred twenty days from its receipt of the proposal, the
19 commission shall report to the Legislature its recommendation in
20 support for or opposition to the amendments to the role and mission
21 statutes that would be necessary for the commission to approve
22 the program and for the institution to offer the program. The
23 time period for submission of the report may be extended for
24 up to an additional ninety days by resolution of the commission
25 which shall show good cause why the extent of review required

1 for this particular proposal necessitates an extension of time
2 to complete the review. Such extension shall be filed with the
3 chairperson of the Education Committee of the Legislature prior to
4 the expiration of the initial one hundred twenty days. The report
5 shall contain supporting rationale for the commission's position,
6 such additional comments as the commission deems appropriate and,
7 in the event the commission supports the amendments to the role
8 and mission statutes, the commission's specific recommendation as
9 to the form of such amendments. If the report indicates support
10 for the necessary amendments to the role and mission statutes,
11 the report shall also constitute the commission's conditional
12 approval of the program, unless the report specifically indicates
13 disapproval of the program. If the necessary amendments to the
14 role and mission statutes supported by the commission in its report
15 to the Legislature are subsequently enacted by the Legislature,
16 the program shall stand approved. Nothing in this section for
17 conditional approval shall be construed to affect the commission's
18 future consideration of such proposal or approval or disapproval of
19 any programs affected by the proposal.

20 (3) Following approval of a new program, such program
21 shall be added to the schedule of existing programs to be reviewed
22 by the commission. Following consultation with the governing
23 board, new programs approved by the commission may also be
24 required to meet, within a reasonable time as stipulated by
25 the commission, minimum performance standards established by the

1 commission pursuant to its rules and regulations. If a program
2 fails to meet minimum performance standards, the commission shall
3 review the program and may continue or withdraw its approval for
4 the program.

5 (4) Existing programs shall be reviewed by the commission
6 pursuant to a program review process established by the commission
7 in consultation with the governing boards or their designated
8 representatives which, to the extent possible while still
9 allowing for timely review by the commission, shall coincide
10 with institutional review and accreditation cycles. In reviewing
11 existing programs, the commission may make use of nonconfidential
12 information and conclusions provided by accreditation processes
13 supplied to the commission by the institutions. All programs in
14 existence prior to January 1, 1992, shall be considered approved
15 until the approval is confirmed or withdrawn by the commission
16 pursuant to the program review process conducted by the commission.

17 (5) Existing programs which do not meet criteria
18 established by the commission pursuant to subsection (7) of
19 this section shall be targeted for indepth review by the public
20 institutions and their governing boards. In performing such indepth
21 review, institutions may make use of information and conclusions
22 provided by accreditation and other established and ongoing
23 academic review processes rather than providing for a separate
24 review process. Programs continued by the governing boards shall
25 be further monitored by the governing board which shall report the

1 status and process of the monitoring to the commission. If the
2 commission determines that a program does not merit continuation,
3 it shall hold a public hearing, following thirty days' notice
4 to the public institution, to consider if the program should be
5 continued. Following the hearing, the commission shall take action
6 to approve or disapprove continuance of the program.

7 (6) Existing programs disapproved for continuance by the
8 commission shall be terminated by a public institution when all
9 students in the program on the date of the decision of the
10 commission to disapprove continuance of the program have had a
11 reasonable opportunity, as determined by the governing board of
12 the public institution, to complete the program. Existing public
13 service programs disapproved for continuance by the commission
14 shall be terminated at the end of the fiscal year in which the
15 decision to disapprove is made.

16 (7) The commission shall establish criteria for the
17 review, monitoring, and approval or disapproval of programs. The
18 governing boards of the public institutions shall be responsible
19 for assuring the quality and effectiveness of programs offered by
20 their institutions. The commission's criteria shall be designed to
21 (a) meet educational needs and (b) assure efficiency and avoid
22 unnecessary duplication. Criteria shall include:

23 (i) Centrality to the role and mission of the public
24 institution;

25 (ii) Consistency with the comprehensive statewide plan;

- 1 (iii) Evidence of need and demand; and
2 (iv) Adequacy of resources to support proposed new
3 programs.

4 The criteria shall not infringe on the prerogative of the
5 governing boards to make decisions on the quality of staff and the
6 design of curriculum.

7 (8) The commission shall develop specific criteria for
8 review, monitoring, and approval or disapproval of participation by
9 any public institution in proposed or existing education centers in
10 addition to the criteria specified in this section. Participation
11 by a public institution in an education center shall also be
12 approved by the governing board of such public institution. The
13 commission shall develop policies and procedures for conducting and
14 approving off-campus programming in an education center.

15 (9) Each public institution shall submit its most
16 recent institutional facilities plan to the commission subject to
17 commission guidelines for the format and content of such plans.
18 The commission shall (a) review each institutional facilities plan
19 to ensure (i) consistency with the comprehensive statewide plan,
20 statewide facilities plan, and institutional role and mission
21 assignments and (ii) identification of unnecessary duplication
22 of facilities and (b) make a written report of its review to
23 the governing board of the public institution within ninety
24 days after receipt of the institutional facilities plan. The
25 commission may, in accordance with the coordination function of the

1 commission pursuant to section 85-1403, recommend modifications to
2 the institutional facilities plans and may require submission of
3 periodic updates of the institutional facilities plans.

4 (10) Governing boards shall submit all proposed capital
5 construction projects which utilize tax funds designated by
6 the Legislature to the commission for review and approval
7 or disapproval. The commission shall, in accordance with the
8 coordination function of the commission pursuant to section
9 85-1403, review, monitor, and approve or disapprove each such
10 capital construction project to provide compliance and consistency
11 with the statewide facilities plan and the comprehensive statewide
12 plan and section 1 of this act and to prevent unnecessary
13 duplication of capital facilities. The commission may disapprove
14 a project only on the basis of a finding by the commission that
15 the project (a) does not comply or is inconsistent with one or
16 more provisions of the statewide facilities plan or other relevant
17 provisions of the comprehensive statewide plan or section 1 of
18 this act or (b) will result in unnecessary duplication of capital
19 facilities.

20 (11) In fulfilling its program and project approval
21 activities prescribed in this section, the commission shall,
22 in accordance with the coordination function of the commission
23 pursuant to section 85-1403, recognize educational activities among
24 all segments of postsecondary education and take into account
25 the educational programs, facilities, and other resources of

1 both public and independent and private postsecondary educational
2 institutions.

3 (12) Any program which is authorized by action of the
4 Legislature or a governing board and which is not in existence
5 prior to January 1, 1992, shall not become operative unless and
6 until such program has been approved by the commission pursuant to
7 this section.

8 Sec. 4. Original sections 81-1114.02 and 85-1414, Reissue
9 Revised Statutes of Nebraska, are repealed.