

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

Final Reading

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 sections 85-1413 and 85-1416, Revised Statutes Cumulative
4 Supplement, 2012, and section 85-1418, Revised Statutes
5 Supplement, 2013; to eliminate and change provisions
6 relating to the review of certain capital construction
7 projects as prescribed; to harmonize provisions; to
8 repeal the original sections; and to outright repeal
9 section 85-1415, Revised Statutes Cumulative Supplement,
10 2012.
11 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 or disapproval of
6 the 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. All capital construction projects, including
10 applicable financing plans, proposed by any nonprofit corporation
11 created by the Board of Regents of the University of Nebraska or the
12 Board of Trustees of the Nebraska State Colleges shall be submitted
13 to the Legislature for review and approval or disapproval by the
14 Legislature, or if the Legislature is not in session, the Executive
15 Board of the Legislative Council, when (1) state general funds, (2)
16 funds received by the University of Nebraska or any state college for
17 the purposes of reimbursing overhead costs and expenses in connection
18 with any federal or other grant or contract, (3) tuition, or (4) the
19 state's operating investment pool investment income constitutes all
20 or any part of the funds used for the repayment of all or any part of
21 the bonds of such nonprofit corporation.

22 Sec. 4. Section 85-1413, Revised Statutes Cumulative
23 Supplement, 2012, is amended to read:

24 85-1413 (1) Pursuant to the authority granted in Article
25 VII, section 14, of the Constitution of Nebraska and the Coordinating

1 Commission for Postsecondary Education Act, the commission shall
2 establish and revise as needed a comprehensive statewide plan for
3 postsecondary education which shall include (a) definitions of the
4 role and mission of each public postsecondary educational institution
5 within any general assignments of role and mission as prescribed in
6 sections 85-917 to 85-966 and (b) a plan for facilities which utilize
7 tax funds designated by the Legislature.

8 (2) The planning process of the commission (a) shall be
9 policy-based and ongoing in order to achieve, within the coordination
10 function of the commission pursuant to section 85-1403, the best
11 possible use of available state resources for high quality and
12 accessible postsecondary educational services and (b) shall take into
13 consideration (i) the needs of the state as described in subsection
14 (3) of this section, (ii) general assignments of role and mission for
15 each public institution in sections 85-917 to 85-966, and (iii) plans
16 for facilities which utilize tax funds designated by the Legislature.

17 (3) In establishing the plan, the commission shall assess
18 the postsecondary educational needs of the state in the following
19 areas:

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

21 (b) Business and industrial needs for a skilled work
22 force;

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

24 (d) The needs of the ethnic populations;

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

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

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

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

5 (4) The plan shall provide a structure or process which
6 encourages and facilitates harmonious and cooperative relationships
7 between public and private postsecondary educational institutions and
8 shall recognize the role and relationship of elementary and secondary
9 education and private postsecondary educational institutions in the
10 state to postsecondary education.

11 (5) The commission shall incorporate into the plan
12 provisions and policies to guide decisionmaking by the commission
13 pursuant to this section and ~~sections 85-1414 and 85-1415.~~ section
14 85-1414. The provisions and policies shall address issues which
15 include, but are not limited to:

16 (a) The facilitation of statewide transfer-of-credit
17 guidelines to be considered by institutional governing boards. The
18 statewide transfer-of-credit guidelines shall be designed to
19 facilitate the transfer of students among public institutions. The
20 statewide transfer-of-credit guidelines shall not require nor
21 encourage the standardization of course content and shall not
22 prescribe course content or credit value assigned by any public
23 institution to the courses;

24 (b) Recommended guidelines for admissions which recognize
25 selective and differentiated admission standards at public

1 institutions and which are consistent with the role and mission of
2 each public institution. It is the intent of the Legislature that
3 changes in admission standards be implemented in conjunction with the
4 role and mission statements established pursuant to this section and
5 sections 85-917 to 85-966 and the adoption of statewide transfer-of-
6 credit and remedial program policies to assure that access to
7 postsecondary education is not limited;

8 (c) Recommended enrollment guidelines consistent with the
9 role and mission of each public institution and specific
10 recommendations designed to increase diversity through more effective
11 enrollment and retention at public institutions;

12 (d) Recommended guidelines for rational and equitable
13 statewide tuition rates and fees for public institutions. The
14 commission shall identify public policy issues relating to tuition
15 and fees of the public postsecondary educational institutions in the
16 state. The recommended guidelines shall take into account the role
17 and mission of each public institution and the need to maximize
18 access to public postsecondary education regardless of a student's
19 financial circumstance;

20 (e) In conjunction with and consistent with its
21 recommended guidelines on admission standards, recommended guidelines
22 which place the primary emphasis at the community college level for
23 postsecondary education remedial programs and reduce the role of the
24 University of Nebraska in offering remedial programs. The commission
25 shall collaborate with the Commissioner of Education to develop

1 recommendations for secondary schools designed to reduce the need for
2 remedial or developmental programs at the postsecondary level;

3 (f) In consultation with the governing boards or their
4 designated representatives, designation of geographic and
5 programmatic service areas for each public institution consistent
6 with role and mission assignments. Except as permitted by the
7 commission pursuant to section 85-1414, no public institution shall
8 provide programs at any site outside its assigned geographic and
9 programmatic service area unless permitted under rules and
10 regulations adopted and promulgated by the commission;

11 (g) After consultation with the governing boards and
12 experts from outside the State of Nebraska, the establishment of a
13 peer group or groups for each public institution for purposes of
14 budget review. In fulfilling this charge, the commission may accept a
15 peer group determined by a governing board in consultation with out-
16 of-state experts;

17 (h) Effective use of information technologies and
18 telecommunications to aid in the delivery of instruction at the
19 postsecondary level. In cooperation with the Nebraska Educational
20 Telecommunications Commission, other state agencies, and, when
21 appropriate, representatives of elementary and secondary public
22 education, the commission may assist in the development of
23 instructional delivery systems employing information technologies and
24 telecommunications. The commission, with the involvement of
25 faculties, public institutions and private postsecondary educational

1 institutions, and the information technology and telecommunications
2 community, shall establish policies to ensure that the objectives of
3 quality and efficiency are met in the delivery of information
4 technology and telecommunications-aided instruction;

5 (i) Workforce development. The commission shall explore
6 methods to improve the competitive quality of the work force and
7 shall encourage enhanced communications and partnerships between
8 public institutions and business and industry;

9 (j) Public service activities. The public institutions
10 shall develop and provide to the commission a comprehensive inventory
11 of public service programs and activities of public institutions; and

12 (k) Financial aid strategy. The commission shall develop
13 a state strategy for state-supported student financial aid programs
14 with the goal of assuring access to and choice in postsecondary
15 education in Nebraska for Nebraska residents within the limits of
16 available state resources.

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

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

25 Sec. 5. Section 85-1416, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2 85-1416 (1) Pursuant to the authority granted in Article
3 VII, section 14, of the Constitution of Nebraska and the Coordinating
4 Commission for Postsecondary Education Act, the commission shall, in
5 accordance with the coordination function of the commission pursuant
6 to section 85-1403, review and modify, if needed to promote
7 compliance and consistency with the comprehensive statewide plan and
8 prevent unnecessary duplication, the budget requests of the governing
9 boards.

10 (2)(a) At least thirty days prior to submitting to the
11 Governor their biennial budget requests pursuant to section 81-1113
12 and any major deficit appropriation requests pursuant to instructions
13 of the Department of Administrative Services, the Board of Regents of
14 the University of Nebraska and the Board of Trustees of the Nebraska
15 State Colleges shall each submit to the commission an outline of its
16 proposed operating budget. The outline of its proposed operating
17 budget or outline of proposed state aid request shall include those
18 information summaries provided to the institution's governing board
19 describing the respective institution's budget for the next fiscal
20 year or biennium. The outline shall contain projections of funds
21 necessary for (i) the retention of current programs and services at
22 current funding levels, (ii) any inflationary costs necessary to
23 maintain current programs and services at the current programmatic or
24 service levels, and (iii) proposed new and expanded programs and
25 services. In addition to the outline, the commission may request an

1 institution to provide to the commission any other supporting
2 information to assist the commission in its budget review process. An
3 institution may comply with such requests pursuant to section
4 85-1417.

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

9 (c) The commission shall analyze institutional budget
10 priorities in light of the comprehensive statewide plan, role and
11 mission assignments, and the goal of prevention of unnecessary
12 duplication. The commission shall submit to the Governor and
13 Legislature by October 15 of each year recommendations for approval
14 or modification of the budget requests together with a rationale for
15 its recommendations. The recommendations submitted to the Legislature
16 shall be submitted electronically. The analysis and recommendations
17 by the commission shall focus on budget requests for new and expanded
18 programs and services and major statewide funding issues or
19 initiatives as identified in the comprehensive statewide plan. If an
20 institution does not comply with the commission's request pursuant to
21 subdivision (a) of this subsection for additional budget information,
22 the commission may so note the refusal and its specific information
23 request in its report of budget recommendations. The commission shall
24 also provide to the Governor and the Appropriations Committee of the
25 Legislature on or before October 1 of each even-numbered year a

1 report identifying public policy issues relating to student tuition
2 and fees, including the appropriate relative differentials of tuition
3 and fee levels between the sectors of public postsecondary education
4 in the state consistent with the comprehensive statewide plan. The
5 report submitted to the committee shall be submitted electronically.

6 (3) At least thirty days prior to submitting to the
7 Governor their biennial budget requests pursuant to section 81-1113
8 and any major deficit appropriation requests pursuant to instructions
9 of the Department of Administrative Services, the Board of Regents of
10 the University of Nebraska and the Board of Trustees of the Nebraska
11 State Colleges shall each submit to the commission information the
12 commission deems necessary regarding each board's capital
13 construction budget requests. The commission shall review the capital
14 construction budget request information and may recommend to the
15 Governor and the Legislature modification, approval, or disapproval
16 of such requests consistent with the statewide facilities plan and
17 any project approval determined pursuant to subsection (10) of
18 section 85-1414. ~~and to section 85-1415.~~ The recommendations
19 submitted to the Legislature shall be submitted electronically. The
20 commission shall develop from a statewide perspective a unified
21 prioritization of individual capital construction budget requests for
22 which it has recommended approval and submit such prioritization to
23 the Governor and the Legislature for their consideration. The
24 prioritization submitted to the Legislature shall be submitted
25 electronically. In establishing its prioritized list, the commission

1 may consider and respond to the priority order established by the
2 Board of Regents or the Board of Trustees in their respective capital
3 construction budget requests.

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

8 Sec. 6. Section 85-1418, Revised Statutes Supplement,
9 2013, is amended to read:

10 85-1418 (1) No state warrant shall be issued by the
11 Department of Administrative Services or used by any public
12 institution for the purpose of funding any program or capital
13 construction project which has not been approved or which has been
14 disapproved by the commission pursuant to the Coordinating Commission
15 for Postsecondary Education Act. If state funding for any such
16 program or project cannot be or is not divided into warrants separate
17 from other programs or projects, the department shall reduce a
18 warrant to the public institution which includes funding for the
19 program or project by the amount of tax funds designated by the
20 Legislature which are budgeted in that fiscal year by the public
21 institution for use for the program or project.

22 (2) Until July 1, 2013, the department may reduce the
23 amount of state aid distributed to a community college area pursuant
24 to the Community College Aid Act, or for fiscal years 2010-11,
25 2011-12, and 2012-13 pursuant to section 90-517, by the amount of

1 funds used by the area to provide a program or capital construction
2 project which has not been approved or which has been disapproved by
3 the commission.

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

8 (4) Any person or public institution aggrieved by a final
9 order of the commission entered pursuant to section 85-1413, 85-1414,
10 ~~85-1415,~~ or 85-1416 shall be entitled to judicial review of the
11 order. Proceedings for review shall be instituted by filing a
12 petition in the district court of Lancaster County within thirty days
13 after public notice of the final decision by the commission is given.
14 The filing of the petition or the service of summons upon the
15 commission shall not stay enforcement of such order. The review shall
16 be conducted by the court without a jury on the record of the
17 commission. The court shall have jurisdiction to enjoin enforcement
18 of any order of the commission which is (a) in violation of
19 constitutional provisions, (b) in excess of the constitutional or
20 statutory authority of the commission, (c) made upon unlawful
21 procedure, or (d) affected by other error of law.

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

1 Sec. 7. Original sections 85-404 and 85-408, Reissue
2 Revised Statutes of Nebraska, sections 85-1413 and 85-1416, Revised
3 Statutes Cumulative Supplement, 2012, and section 85-1418, Revised
4 Statutes Supplement, 2013, are repealed.

5 Sec. 8. The following section is outright repealed:
6 Section 85-1415, Revised Statutes Cumulative Supplement, 2012.