

LEGISLATIVE BILL 981

Approved by the Governor April 13, 1984

Introduced by Education Committee, Vickers, 38,
Chairperson; Harris, 27; Scofield, 49;
Eret, 32; Hoagland, 6; Goll, 16;
Newell, 13

AN ACT relating to postsecondary education; to amend sections 85-901, 85-902, 85-905, 85-907 to 85-911, 85-913, 85-917, 85-994, and 85-999, Reissue Revised Statutes of Nebraska, 1943; to provide intent; to define terms; to create a system of program review for public postsecondary institutions as prescribed; to change the composition of the Nebraska Coordinating Commission for Postsecondary Education as prescribed; to provide powers and duties; to provide voting restrictions and requirements; to change provisions relating to role and mission statements; to require a study of tuition levels; to change provisions relating to award requirements as prescribed; to harmonize provisions; to provide severability; and to repeal the original sections.

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

Section 1. The Legislature hereby finds and declares that an ongoing program review process is needed to ensure efficient use of state funds in support of higher education and to preserve the quality of instructional programs offered by public postsecondary institutions in the state. The Legislature further finds that such program review process should be based on a recognition of the state's role and mission for each public postsecondary institution and should take into account the availability and accessibility of educational services statewide. The Legislature intends that all instructional programs of public postsecondary institutions shall be reviewed on a regular basis pursuant to section 2 of this act by the governing board of such institution and that the Nebraska Coordinating Commission for Postsecondary Education shall act as an intermediary and analyzing agent to present program review information to the Legislature.

Sec. 2. For purposes of sections 1 to 7 of this act, unless the context otherwise requires, program of instruction shall include those programs classified by program classification system categories which lead directly to degrees, diplomas, or certificates. Program of instruction shall not include any program which is

predominantly related to research or public service and shall not include interdisciplinary and individual study programs.

The commission shall, by rule and regulation, define additional terms including, but not limited to, full-time equivalent instructional staff, academic department, and student semester credit hour.

Sec. 3. The Nebraska Coordinating Commission for Postsecondary Education shall adopt and promulgate rules and regulations governing the process by which information shall be received from each postsecondary institution and transmitted to the Legislature. To the maximum extent possible, the commission shall make use of information made available by the state's postsecondary institutions through the higher education general information survey and the Nebraska educational data system established pursuant to section 85-914. The coordinating commission shall establish an ongoing system of program review. The goal of such system shall be to provide for the review of all instructional programs every five years on a rotating basis. The commission shall take into account existing accreditation cycles and internal review time frames when establishing such program review system.

Sec. 4. (1) The governing board of each public postsecondary institution shall establish and maintain an ongoing process of instructional program review for each institution under its control. Each governing board may use any criteria for program review consistent with the mission of the institution under its control, but such criteria shall include, for purposes of sections 4 and 5 of this act, the following:

(a) The average number of degrees, diplomas, or certificates issued for each instructional program at each level of instruction during the past five fiscal years; and

(b) The average number of student semester credit hours per full-time equivalent instructional staff during the past five fiscal years.

(2) All degree programs which either (a) annually produce an average of less than ten degrees, diplomas, or certificates per year at the baccalaureate level or below, five degrees per year at the masters level, four degrees per year at the specialist level, and three degrees per year at the doctorate and first professional level or (b) annually produce less than two hundred seventy-five student semester credit hours per full-time equivalent instructional staff shall be reviewed in detail by the institutions' governing boards to determine if such programs should be continued.

(3) In determining whether to continue programs producing less than the minimums prescribed in subsection (2) of this section, the governing boards may consider any factors appropriate to the nature of the program being

reviewed, but shall consider, for purposes of sections 4 and 5 of this act, the following factors:

(a) Specific needs of the State of Nebraska relative to the program offered and the effect discontinuance of the program would have upon access to programs of the type being reviewed;

(b) Trends and projections of degrees and student credit hour production;

(c) Current student demand;

(d) Performance of graduates on placement tests and the ability of such graduates to obtain employment or admission for advanced study;

(e) Support for the program in terms of instruction, equipment, supplies, library resources, and physical facilities;

(f) The relationship of the program to the role and mission of the institution which offers the program;

(g) Pertinent accreditation standards and laboratory restrictions; and

(h) The cost of continuing the program or the cost savings if such program is eliminated.

(4) If the governing board determines that an instructional program is no longer feasible, then a plan to discontinue the program shall be established.

Sec. 5. The Nebraska Coordinating Commission for Postsecondary Education shall develop a system to monitor the program review procedures prescribed by section 4 of this act. Each year the commission shall compile, analyze, and make recommendations, in detail as prescribed by subsection (3) of section 4 of this act, regarding the program review information provided by each public postsecondary institution. The commission shall present a summary of the institutions' program review activities in a statewide analysis, along with recommendations of the commission, to the institutions' governing boards and the Legislature in an annual report. The report shall be delivered at a joint public hearing of the Legislature's Education and Appropriations Committees.

Sec. 6. The Legislature's Education and Appropriations Committees shall take affirmative action to accept or reject the recommendations of the Nebraska Coordinating Commission for Postsecondary Education and shall communicate such action to the commission. The commission shall in turn communicate such action to the appropriate governing board. Notwithstanding such recommendations, the governing board of each institution shall retain the right to continue, modify, or discontinue all instructional programs under such governing board's control.

Sec. 7. Consistent with its general statutory role and mission assignment, the Board of Regents of the University of Nebraska, the Board of Trustees of the

Nebraska State Colleges, and the area governing boards of the technical community colleges shall establish a system for projecting the future needs of the state or areas of the state for new programs of instruction. Each institution shall make five-year projections for specific needs or areas of need which will not be met by the state's postsecondary institutions. Such five-year projections may be modified periodically to take into account new programs identified as necessary to meet a state or area or regional need on a short-term basis. The Nebraska Coordinating Commission for Postsecondary Education shall include identification of unmet needs in its annual report prescribed in section 5 of this act. After the effective date of this act, no new program of instruction shall be offered which has not been identified by the appropriate governing board as meeting a specific need of the state or a specific area or region of the state.

Sec. 8. That section 85-901, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-901. (1) The Legislature hereby declares the following to be proper and desirable long-range goals relative to the conduct of postsecondary education in this state:

(a) To provide high quality education and educational opportunities for all residents of Nebraska;

(b) To provide for a statewide perspective and emphasis in ~~decision making~~ decisionmaking and planning for postsecondary education;

(c) To identify and meet, through the coordinated effort of postsecondary institutions, the educational, service, and research needs of this state;

(d) To provide for the increased sharing of expertise and resources of the postsecondary education institutions of this state and to make the most efficient use of such expertise and resources;

(e) To eliminate unneeded duplications and inefficiencies in public educational programs and services through an ongoing system of program review and analysis;

(f) To encourage and enable students to seek the highest level of productive education; and

(g) To maintain cooperation and joint planning among public, independent, and proprietary institutions of postsecondary education; and

(h) To establish a system of predicting the future need for specific programs of instruction not offered by any public postsecondary institutions in Nebraska.

(2) The Legislature recognizes that long-range goals must include short and intermediate-range goals as a step-by-step means for achievement within some time frame.

The Legislature determines and declares that the creation of a state coordinating agency would best accomplish the first step in the pursuit of the long-range

goals stated. The initial charge of the agency shall be limited to the powers and duties as stated in section 85-910.

Sec. 9. That section 85-902, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-902. (1) The Nebraska Coordinating Commission for Postsecondary Education, referred to in sections 85-901 to 85-911 and sections 1 to 7 and 10 of this act as the commission, is hereby created.

(2) The commission shall consist of twelve seventeen members as follows:

(a) Six members, two from each congressional district, shall be appointed from the general public by the Governor, with the advice and consent of the Legislature. Of such members initially appointed, two shall be appointed to terms of two years each, two shall be appointed to terms of four years each, and two shall be appointed to terms of six years each. Thereafter all appointments of members from the public shall be to terms of six years each. In appointing such members, the Governor shall take all steps necessary to ensure that the appointees (i) are broadly and equitably representative of the general public, (ii) are not employees or officers of any postsecondary institution of this state, and (iii) are not employees or officials of state government;

(b) Five members shall be representatives of postsecondary education institutions of this state, (i) one member from the state university system appointed by and from the Board of Regents of the University of Nebraska, (ii) one member from the state college system appointed by and from the State College Board of Trustees, (iii) one member from a technical community college area board appointed by the Governor with the advice of the area boards of the technical community colleges, (iv) one member from a governing board of an independent college of this state appointed by the Governor with the advice of the independent colleges, and (v) one member who is an owner, shareholder, or board member of a proprietary school of this state appointed by the Governor with the advice of the proprietary schools. Such members shall be appointed to terms of three years each; and

(c) Either the State Commissioner of Education or one member from the State Board of Education appointed by such board who shall serve for a term of three years; and

(d) Five alternate members shall be representatives of postsecondary education institutions of this state and chosen in the manner provided in subdivision (2)(b) of this section. Alternate members shall be accorded all the rights and privileges of other commission members, except that alternate members shall vote only in the absence of the representative to whom the member is an alternate. Such alternate members shall be appointed to terms of three years each.

Sec. 10. Commission members who are representatives of independent colleges or proprietary schools shall not vote on any program review decisions pursuant to sections 1 to 7 of this act. Commission members who are representatives of postsecondary education institutions shall not vote on scholarship awards pursuant to sections 85-980 to 85-9,102 or any financial aid program for postsecondary students. A majority of commission members from the general public must be present to constitute a quorum whenever institutional representatives are disqualified from voting.

Sec. 11. That section 85-905, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-905. The commission shall elect from its members a chairman, vice-chairman chairperson, vice-chairperson, and such other officers as may be necessary, who shall hold office at the pleasure of the commission. The officers shall perform all duties as determined by the commission, not inconsistent with the rules, regulations, and policies adopted and promulgated by the commission under the provisions of sections 85-901 to 85-911 and sections 1 to 7, 10, and 19 of this act.

Sec. 12. That section 85-907, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-907. (1) The commission shall meet at least once every calendar quarter at a time and place fixed by the commission and shall keep a record of its proceedings which shall be open to the public for inspection. Special meetings may be called by the chairman chairperson or a majority of the members. A majority of the members shall constitute a quorum for any action taken by the commission.

(2) The commission shall adopt and promulgate rules and regulations reasonable and necessary to carry out the provisions of sections 85-901 to 85-911, and sections 1 to 7, 10, and 19 of this act and shall at all times conduct itself as an independent public entity.

Sec. 13. That section 85-908, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-908. The commission shall have the authority to:

(1) Select, employ, and supervise a professional staff to carry out the provisions of sections 85-901 to 85-911, and sections 1 to 7, 10, and 19 of this act and to secure the necessary office space, facilities, and staff support to accommodate a staff. Such staff may include a director and persons trained or experienced in program review, data analysis, and institutional relations. The commission shall have the option of compensating its staff either through the state pay plan or through the payroll of the University of Nebraska, in which case salaries and benefits shall be commensurate with those of persons with equivalent responsibilities and training at the university;

(2) Request from any department, division, board, bureau, commission, or agency of the state such assistance and data as will enable it to properly carry out its powers and duties; and

(3) Establish advisory committees as may be necessary to assist the commission in the performance of its duties.

Sec. 14. That section 85-909, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-909. The Legislature shall appropriate, from the General Fund, such money as may be necessary to permit the commission to carry out its duties and programs pursuant to sections 85-901 to 85-911 and sections 1 to 7, 10, and 19 of this act and to promote the purposes of a coordinated postsecondary education system.

Sec. 15. That section 85-910, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-910. The commission shall have and may exercise the following powers and duties:

(1) To exercise exclusive general supervision of the administration and enforcement of this section and all rules and regulations adopted thereunder;

(2) To facilitate communication and coordination for the mutual exchange of ideas and information between educational institutions in such areas as:

(a) The sharing of resources, expertise, and facilities among institutions or agencies; and

(b) The establishing of plans, practices, procedures, and policies on matters which affect more than one institution or agency, specifically to address the issue of transferability of credit;

(3) To advise, consult, and cooperate with other agencies of this state, the federal government, other states, affected institutions or groups, and political subdivisions to further the purposes of this section;

(4) To 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, which loans and grants shall not be expended for any other than the purposes for which provided, and to determine institutional eligibility for such loans, grants, and programs when such determination is to be made by the administering state agency, which loans and grants shall not be expended unless approved and appropriated by the Legislature;

(5) To encourage, participate in, and conduct studies, investigations, and research related to the purposes for which the commission was created;

(6) Effective January 1, 1977, to undertake the task of running the Enrollment Projection Model developed by the Higher Education Facilities Commission. Duties shall include the collection of the input data, operation

of the model, and a report of the findings;

(7) To make recommendations (a) to the postsecondary education institutions of this state concerning methods which may benefit the services they provide to include the short-range goal of identifying those areas of responsibility pertaining to the private and proprietary institutions as services they should provide and not to be duplicated by public institutions; (b) to the Governor and the Legislature concerning legislation which may be beneficial to the postsecondary education services in this state and which would effect the purpose of sections 85-901 to 85-911 and sections 1 to 7, 10, and 19 of this act;

(8) To establish 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-secondary education and postsecondary education. The coordination effort shall include the following short-range goals:

(a) The ultimate removal of remedial courses at the postsecondary education level; and

(b) The clear identification of adult and continuing education responsibilities between the elementary-secondary education level and postsecondary education level to prevent duplication of effort; and

(9) To establish close liaison with the State Board of Education in connection with the board's responsibilities for granting permits for the operation of correspondence schools, privately owned business or trade schools, or other educational institutions under Chapter 79, article 28, whenever any correspondence school, business school, or vocational school offers any course which is intended to lead to the granting of an associate degree, or courses which qualify for college credit, and to make such recommendations with reference to the granting of permits to such institutions as may be appropriate in the individual circumstances.

Sec. 16. That section 85-911, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-911. The commission shall prepare an annual report and submit it to the Governor and the Clerk of the Legislature on or before December 31 of each year commencing on December 31, 1976. Such report shall include, but not be limited to, a synopsis of the activities of the commission and its related staff, the names of all personnel employed by or under the supervision of the commission and their responsibilities, the amount of funds received by the commission, the amount of funds expended in carrying out its duties under sections 85-901 to 85-911 and sections 1 to 7, 10, and 19 of this act, and such other information as may be necessary to inform the Governor, Legislature, and interested public of the activities of the commission. Each member of the

Legislature shall receive a copy of such report by making a request for it to the chairperson of the commission.

Sec. 17. That section 85-913, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-913. (1) In addition to any other powers and duties imposed upon the Nebraska Coordinating Commission for Postsecondary Education under sections 85-901 to 85-911 and sections 1 to 7, 10, and 19 of this act, the commission shall develop studies to:

(a) Develop proposals providing for the transferability of program credits among systems of postsecondary education;

(b) Determine the extent of student attrition in the three postsecondary systems and recommend approaches for the reduction of attrition rates; and

(c) Develop proposals for an integrated delivery system for the provision of adult and continuing education services.

(2) A report of each proposal resulting from studies conducted pursuant to subsection (1) of this section shall be filed with the committee not later than January 1, 1978.

Sec. 18. That section 85-917, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-917. The Legislature hereby declares that it is the intent and purpose of this act to provide statements of role and mission for the state's systems and institutions of postsecondary education which will:

(1) Provide for a coordinated state system of postsecondary education;

(2) Provide for the maintenance and development of quality postsecondary educational programs and services for all citizens in all regions of the state;

(3) Insure student and community access to comprehensive educational programs;

(4) Limit unnecessary program and facility duplication through a coordinated planning and review process;

(5) Encourage statewide long-term academic and fiscal planning for postsecondary education in the state; and

(6) Establish a legislative review process to insure that (a) role and mission statements are updated as necessary and (b) postsecondary institutions are complying with role and mission assignments and are serving a valuable purpose to the state within their current role and mission assignments; and

(7) Provide a mechanism for (a) implementing an extensive change in the scope, role, and mission of a campus, (b) closing a campus, (c) merging campuses, and (d) changing a campus to serve a completely different public purpose.

Sec. 19. (1) The Nebraska Coordinating

Commission for Postsecondary Education shall study and recommend to the Education Committee of the Legislature by October 1, 1984, appropriate levels of student tuition for each public postsecondary institution in this state. The study shall take into consideration:

(a) Tuition levels at campuses throughout the country that have similar programs and are of the same approximate size;

(b) Program costs per student for different levels of education including professional degrees;

(c) The availability of grants, loans, work-study programs, and other forms of student aid which might augment the ability of the student to pay tuition; and

(d) Other methods of assessing appropriate tuition levels as determined by the commission.

(2) The study results and recommendations shall be published and shared with the appropriate institutions and the general public.

(3) Upon the receipt of the results and recommendations of the commission, the Education Committee shall schedule and conduct a public hearing to review the study on or before December 1, 1984.

(4) The commission shall biennially conduct a similar study of student tuition and shall report its findings by October 1 of the year of the study to the Education Committee. The committee shall schedule and conduct a hearing to review the study on or before December 1 of each year a study is provided to it.

Sec. 20. That section 85-994, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

85-994. An award may be given to an eligible student for attendance at an eligible postsecondary educational institution if:

(1) The award is made directly to the eligible student rather than to the eligible postsecondary educational institution;

(2) The individual is accepted for enrollment, as follows:

(a) In the case of an individual beginning his or her first year or freshman year of postsecondary education such individual has satisfied requirements for admission and has enrolled or indicated an intent to enroll in an eligible postsecondary educational institution; or

(b) In the case of an individual enrolled in an eligible postsecondary educational institution following the successful completion of the first year, he or she continues to meet the requirements of sections 85-980 to 85-9,102 and has maintained such minimum standards of performance as are required by the institution in which the individual is enrolled;

(3) The maximum award, including when applicable, federal matching funds, paid to an eligible

student in any one school year, shall be the lesser of the following amounts:

(a) One thousand eight hundred dollars An amount to be set each year by the commission after consideration of the federal Pell Grant authorization limitation; or

(b) The One half the actual tuition charge and fees charged at the eligible postsecondary educational institution selected by the eligible student. Notwithstanding this measure of the amount of the award by the amount of the actual tuition charge, the award paid to the student may be used by the student for any educational expenses;

(4) The award is given on the basis of substantial financial need;

(5) The award covers one school year of attendance as an undergraduate student at an eligible postsecondary educational institution which has adopted and has available for inspection its refund and repayment policies;

(6) The individual receiving such an award signs a notarized affidavit stating that the award will be used only for educational expenses;

(7) The individual is not pursuing a course of study which is pervasively sectarian and creditable toward a theological or divinity degree; and

(8) The individual has complied with such rules and regulations as may be established by the commission.

Sec. 21. That section 85-999, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:
85-999. The commission shall be responsible for:

(1) Supervision of the issuance of public information concerning sections 85-980 to 85-9,102;

(2) Determination of criteria for the eligibility of grantees;

(3) Adoption of rules and regulations for processing and approving applications from students;

(4) Determination of recipients of grants made pursuant to sections 85-980 to 85-9,102; and

(5) Determination of the effective date of grants made pursuant to sections 85-980 to 85-9,102; and

(6) Determination of criteria for setting the size of the grants which shall be awarded after the commission considers the maximum grant authorized, the eligibility of applicants, the funds available, and the costs of attending the various eligible institutions.

Sec. 22. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 23. That original sections 85-901, 85-902, 85-905, 85-907 to 85-911, 85-913, 85-917, 85-994, and

LB 981

LB 981

85-999, Reissue Revised Statutes of Nebraska, 1943, are repealed.