

AMENDMENTS TO LB 637

Introduced by Education

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Sections 1 to 21 of this act shall be known
4 and may be cited as the Postsecondary Institution Act.

5 Sec. 2. The purposes of the Postsecondary Institution Act
6 are to ensure that minimum standards of operation are met by both
7 private and out-of-state postsecondary institutions operating in
8 Nebraska and to provide for consumer protection for students who
9 enroll in higher education programs in this state.

10 Sec. 3. For purposes of the Postsecondary Institution
11 Act:

12 (1) Authorization to operate means approval by the
13 commission to operate a postsecondary institution in this state;

14 (2) Authorization to operate on a continuing basis means
15 approval by the commission to operate a postsecondary institution
16 in this state without a renewal requirement;

17 (3) Commission means the Coordinating Commission for
18 Postsecondary Education;

19 (4) Department means the State Department of Education;

20 (5) (a) Establishing a physical presence means:

21 (i) Offering a course for college credit or a degree
22 program in this state that leads to an associate, baccalaureate,
23 graduate, or professional degree, including:

1 (A) Establishing a physical location in this state where
2 a student may receive synchronous or asynchronous instruction; or

3 (B) Offering a course or program that requires students
4 to physically meet in one location for instructional purposes more
5 than once during the course term; or

6 (ii) Establishing an administrative office in this state,
7 including:

8 (A) Maintaining an administrative office in this state
9 for purposes of enrolling students, providing information to
10 students about the institution, or providing student support
11 services;

12 (B) Providing office space to staff, whether
13 instructional or noninstructional staff; or

14 (C) Establishing a mailing address in this state.

15 (b) Physical presence does not include:

16 (i) Course offerings in the nature of a short course or
17 seminar if instruction for the short course or seminar takes no
18 more than twenty classroom hours;

19 (ii) Course offerings on a military installation solely
20 for military personnel or civilians employed on such installation;

21 (iii) An educational experience arranged for an
22 individual student, such as a clinical, practicum, residency, or
23 internship; or

24 (iv) Courses offered entirely asynchronously, including
25 strictly online courses;

26 (6) Executive director means the executive director of
27 the commission or his or her designee;

1 (7) Nebraska public postsecondary institution means
2 any public institution established, operated, and governed by
3 this state or any of its political subdivisions that provides
4 postsecondary education;

5 (8) Out-of-state public postsecondary institution means
6 any public institution with a physical presence in Nebraska that is
7 established, operated, and governed by another state or any of its
8 political subdivisions and that provides postsecondary education;

9 (9) Postsecondary institution means any private
10 postsecondary institution, out-of-state public postsecondary
11 institution, or Nebraska public postsecondary institution exempt
12 from the Private Postsecondary Career School Act; and

13 (10) Private postsecondary institution means any Nebraska
14 or out-of-state nonpublic postsecondary institution with a physical
15 presence in Nebraska, including any for-profit or nonprofit
16 institution, that provides postsecondary education.

17 Sec. 4. The commission shall administer the Postsecondary
18 Institution Act. To fulfill the purposes of the act, the commission
19 may request from any department, division, board, bureau,
20 commission, or other agency of this state, and such entity shall
21 provide, such information as the commission deems necessary to
22 exercise its powers and perform its duties under the act.

23 Sec. 5. The commission has the following powers and
24 duties:

25 (1) To establish levels of authorization to operate based
26 on institutional offerings;

27 (2) To receive, investigate as it may deem necessary, and

1 act upon applications for authorization to operate and applications
2 to renew an authorization to operate;

3 (3) To establish reporting requirements by campus
4 location either through the federal Integrated Postsecondary
5 Education Data System, 20 U.S.C. 1094(a)(17), as such section
6 existed on January 1, 2011, and 34 C.F.R. 668.14(b)(19), as
7 such regulation existed on January 1, 2011, or directly to the
8 commission for any postsecondary institution authorized to operate;

9 (4) To maintain a list of postsecondary institutions
10 authorized to operate, which shall be made available to the public;

11 (5) To establish a notification process when an
12 authorized postsecondary institution changes its address or adds
13 instructional sites within this state;

14 (6) To conduct site visits of postsecondary institutions
15 to carry out the Postsecondary Institution Act;

16 (7) To establish fees for applications for authorization
17 to operate and applications to renew authorization to operate,
18 which shall be not more than the cost of reviewing and evaluating
19 the applications;

20 (8) To investigate any violations of the act by a
21 postsecondary institution; and

22 (9) To adopt and promulgate rules, regulations, and
23 procedures to administer the act.

24 Sec. 6. The commission shall adopt and promulgate rules
25 and regulations to establish minimum standards according to which
26 a postsecondary institution shall be authorized to operate within
27 the state, and upon failure to operate according to such standards,

1 the postsecondary institution shall be subject to the suspension or
2 revocation of the authorization to operate. An institution shall
3 demonstrate that it can be maintained and operated in accordance
4 with such standards. The standards shall include, but not be
5 limited to:

6 (1) The financial soundness of the institution and its
7 capability to fulfill its proposed commitments and sustain its
8 operations;

9 (2) The quality and adequacy of teaching faculty, library
10 services, and support services;

11 (3) The quality of the programs offered, including
12 courses, programs of instruction, degrees, any necessary clinical
13 placements, and the institution's ability to generate and sustain
14 enrollment;

15 (4) The specific locations where programs will be offered
16 or planned locations and a demonstration that facilities are
17 adequate at the locations for the programs to be offered;

18 (5) Assurances regarding transfer of credits earned in
19 the program to the main campus of such institution and clear and
20 accurate representations about the transferability of credits to
21 other institutions located in Nebraska and elsewhere;

22 (6) Whether such institution and, when appropriate, the
23 program, are fully accredited, or seeking accreditation, by an
24 accrediting body recognized by the United States Department of
25 Education;

26 (7) The institution's policies and procedures related to
27 students, including, but not limited to, recruiting and admissions

1 practices and the tuition refund policy for an institution that
2 does not participate in federal Title IV financial aid programs;
3 and

4 (8) Any other standards deemed necessary by the
5 commission.

6 Sec. 7. The following are exempt from the Postsecondary
7 Institution Act:

8 (1) Any institution or organization which offers
9 education or instruction and which is licensed and regulated solely
10 by an agency of the federal government with respect to curriculum
11 and qualifications of instructional staff; or

12 (2) Any private postsecondary career school as defined in
13 the Private Postsecondary Career School Act.

14 Sec. 8. No postsecondary institution shall operate in the
15 State of Nebraska by establishing a physical presence in this state
16 until it has received authorization to operate by the commission.

17 Sec. 9. No postsecondary institution authorized to
18 operate under the Postsecondary Institution Act shall charge
19 tuition or fees for more than one academic term or require a
20 student to sign loan documents for more than one academic term.

21 Sec. 10. (1) On the effective date of this act, the
22 following institutions shall be deemed to have authorization to
23 operate on a continuing basis:

24 (a) All out-of-state public postsecondary institutions
25 with a physical presence that for at least twenty academic years
26 have continuously offered one or more four-year undergraduate
27 programs in Nebraska in compliance with state and federal law;

1 (b) All private postsecondary institutions with a
2 physical presence that for at least twenty academic years, under
3 the same ownership, have continuously offered one or more four-year
4 undergraduate programs in Nebraska in compliance with state and
5 federal law; and

6 (c) All Nebraska public postsecondary institutions.

7 (2) Nothing in the Postsecondary Institution Act shall
8 provide any additional authority to the commission to regulate any
9 institution deemed to have authorization to operate on a continuing
10 basis.

11 Sec. 11. (1) Any postsecondary institution with a
12 physical presence in Nebraska as of the effective date of this act
13 and not previously authorized to operate by the commission or other
14 state agency prior to the effective date of this act shall apply to
15 the commission for authorization to operate as a new institution
16 on or before December 31, 2011.

17 (2) Any postsecondary institution authorized to operate
18 by the commission or other state agency prior to the effective
19 date of this act and not deemed to have authority to operate on
20 a continuing basis pursuant to section 10 of this act shall apply
21 to the commission for a renewal of the authorization to operate
22 between October 1, 2011, and December 31, 2011. If the institution
23 fails to apply on or before December 31, 2011, the original
24 authorization to operate shall terminate on January 1, 2012.

25 (3) Any postsecondary institution that has not
26 established a physical presence as of the effective date of this
27 act shall apply to the commission for authorization to operate as a

1 new institution and receive such authorization prior to commencing
2 operations in this state.

3 Sec. 12. (1) If an application is for an initial
4 authorization to operate, the commission shall hold a public
5 hearing. The hearing shall be scheduled following a completed
6 review of the application for authorization to operate, including
7 any further information submitted by the applicant as required
8 by the commission and any investigation of the applicant as
9 the commission may deem necessary or appropriate, and shall be
10 conducted according to the Administrative Procedure Act. After the
11 public hearing, the commission shall grant or deny the application
12 for authorization to operate. A grant of authorization to operate
13 may be on such terms and conditions as the commission may specify.
14 Such authorization shall not exceed a five-year period.

15 (2) After review of an application to renew an
16 authorization to operate, including any further information
17 submitted by the applicant as required by the commission and
18 any investigation of the applicant as the commission may deem
19 necessary or appropriate, the commission shall grant or deny the
20 application for renewal of an authorization to operate. Renewal of
21 an authorization to operate may be on such terms and conditions
22 as the commission may specify. Such authorization shall be for
23 a five-year period, unless the commission determines that a
24 shorter renewal period is appropriate based on the standards
25 established pursuant to section 6 of this act. If the applicant
26 has, for at least twenty academic years under the same ownership,
27 continuously offered one or more four-year undergraduate programs

1 with a physical presence in Nebraska in compliance with state and
2 federal law, the commission shall grant authorization to operate
3 on a continuing basis, unless the commission determines that an
4 additional review period is appropriate based on the standards
5 established pursuant to section 6 of this act.

6 Sec. 13. An authorization to operate shall be in a
7 form approved by the commission and shall state in a clear and
8 conspicuous manner at least the following information:

9 (1) The date of issuance, effective date, and term of the
10 authorization to operate;

11 (2) The full and correct name and address of the
12 institution authorized to operate;

13 (3) The authority for authorization to operate and the
14 conditions thereof; and

15 (4) Any limitation of authorization to operate as deemed
16 necessary by the commission.

17 Sec. 14. Any postsecondary institution authorized to
18 operate which ceases to meet any of the requirements of the
19 Postsecondary Institution Act, any rules or regulations adopted and
20 promulgated under the act, or any terms or conditions specified by
21 the commission for authorization to operate under the act shall be
22 notified in writing of any such specific deficiency by certified
23 mail. A hearing shall be scheduled requiring the institution
24 to show cause why the authorization to operate should not be
25 suspended or revoked. The hearing shall be held according to the
26 Administrative Procedure Act. After the hearing, if the commission
27 determines that any requirements, rules or regulations, or terms

1 and conditions have been violated, the commission may suspend or
2 revoke the authorization to operate or may require action as a
3 condition of continued authorization to operate.

4 Sec. 15. The authorization to operate or authorization
5 to operate on a continuing basis shall be issued to the owner
6 or governing body of the postsecondary institution and shall be
7 nontransferable. If there is a change in ownership, as defined by
8 the commission in rules and regulations, the new owner or governing
9 body shall, within thirty days after the change of ownership,
10 apply for a new authorization to operate under the Postsecondary
11 Institution Act, and if the institution fails to apply within such
12 time period, the original authorization to operate shall terminate.
13 An application for a new authorization to operate may be deemed an
14 application for renewal of the institution's original authorization
15 to operate. Verification that all student records are transferred
16 intact and in good condition to the new owner shall accompany the
17 application.

18 Sec. 16. At least ninety days prior to the expiration
19 of its authorization to operate, a postsecondary institution shall
20 complete and file with the commission an application form for
21 renewal of its authorization to operate. Financial stability
22 information shall accompany the application.

23 Sec. 17. (1) Any institution denied an authorization
24 to operate, a renewal of an authorization to operate, or an
25 authorization to operate on a continuing basis by the commission
26 shall have the right to a hearing and a review of such decision
27 by the commission. If upon written notification of a denial the

1 aggrieved party desires a hearing and review, such party shall
2 notify the commission in writing within ten business days after
3 receipt of notice by the commission. If the aggrieved party does
4 not notify the commission pursuant to this section, the action
5 shall be deemed final. Upon receipt of such notice from the
6 aggrieved party, the commission shall fix the time and place
7 for a hearing and shall notify the aggrieved party of such by
8 certified mail. The hearing shall be conducted according to the
9 Administrative Procedure Act.

10 (2) A decision of the commission following such hearing
11 shall be deemed final subject to the right of judicial review
12 provided in the Administrative Procedure Act. All matters presented
13 at any such hearing shall be acted upon promptly by the commission,
14 and the commission shall notify all parties in writing of
15 its decision, which shall include a statement of findings and
16 conclusions upon all material issues of fact, law, or discretion
17 presented at the hearing and the appropriate rule, regulation,
18 order, sanction, relief, or denial thereof.

19 Sec. 18. (1) Any person claiming damage or loss as a
20 result of any act or practice by a postsecondary institution
21 which is a violation of the Postsecondary Institution Act, of the
22 rules and regulations adopted and promulgated under the act, or
23 of standards established pursuant to section 6 of this act may
24 file with the commission a complaint against such institution. The
25 complaint shall set forth the alleged violation and shall contain
26 such other information as may be required by the commission. A
27 complaint may also be filed with the commission by the executive

1 director or the Attorney General.

2 (2) If efforts by the commission to resolve the complaint
3 are not successful and if the commission deems it appropriate,
4 the commission may hold a hearing on such complaint after ten
5 days' written notice by certified mail, return receipt requested,
6 to such institution, giving notice of a time and place for the
7 hearing on such complaint. Such hearing shall be conducted in
8 accordance with the Administrative Procedure Act. If, upon all
9 evidence at the hearing, the commission finds that a postsecondary
10 institution has engaged in or is engaging in any act or practice
11 which violates the Postsecondary Institution Act, the rules and
12 regulations adopted and promulgated under the act, or the standards
13 established pursuant to section 6 of this act, the commission
14 shall issue and cause to be served upon such institution an order
15 requiring such institution to cease and desist from such act or
16 practice. The commission may also, as appropriate, based on its
17 own investigation or the evidence adduced at such hearing or both,
18 commence an action:

19 (a) To revoke an institution's authorization to operate
20 if the institution does not have an authorization to operate on a
21 continuing basis; or

22 (b) To refer the complaint and all related evidence to
23 the Attorney General.

24 Sec. 19. Any person aggrieved or adversely affected by
25 any final commission action may appeal such action. The appeal
26 shall be in accordance with the Administrative Procedure Act.

27 Sec. 20. The Attorney General or the county attorney of

1 the county in which a postsecondary institution is located, at the
2 request of the commission or on his or her own accord, may bring
3 any appropriate action or proceeding in any court of competent
4 jurisdiction to enforce the Postsecondary Institution Act.

5 Sec. 21. If it appears to the commission that any entity
6 is or has been violating the Postsecondary Institution Act or
7 any of the rules, regulations, or orders of the commission, the
8 commission may file a petition for injunction in the name of the
9 commission in any court of competent jurisdiction in this state
10 against such entity for the purpose of enjoining such violation
11 or for an order directing compliance with the act and any rules,
12 regulations, and orders. The commission shall not be required to
13 allege or prove that there is no adequate remedy at law. The right
14 of injunction provided in this section shall be in addition to any
15 other legal remedy which the commission may possess and shall be in
16 addition to any right of criminal prosecution provided by law. The
17 commission shall not obtain a temporary restraining order without
18 notice to the entity affected. The pendency of commission action
19 with respect to alleged violations shall not operate as a bar to an
20 action for injunctive relief pursuant to this section.

21 Sec. 22. Section 38-2622, Reissue Revised Statutes of
22 Nebraska, as amended by section 4, Legislative Bill 334, One
23 Hundred Second Legislature, First Session, 2011, is amended to
24 read:

25 38-2622 Annual financial payments made under sections
26 38-2620 to 38-2623 shall be limited to students who participated
27 in or were accepted into the program in the academic year 2010-11

1 and shall continue for the remaining academic year or years that
2 any such student is enrolled in an accredited school or college of
3 optometry subject to the limitation provided in section 38-2623.

4 Sec. 23. Section 77-2704.12, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-2704.12 (1) Sales and use taxes shall not be imposed
7 on the gross receipts from the sale, lease, or rental of and the
8 storage, use, or other consumption in this state of purchases by

9 (a) any nonprofit organization created exclusively for religious
10 purposes, (b) any nonprofit organization providing services
11 exclusively to the blind, (c) any nonprofit private educational
12 institution established under sections 79-1601 to 79-1607, (d) any

13 ~~nonprofit private college or university established under sections~~
14 ~~85-1101 to 85-1111, regionally or nationally accredited, nonprofit,~~
15 ~~privately controlled college or university with its primary campus~~

16 ~~physically located in Nebraska,~~ (e) any nonprofit (i) hospital,
17 (ii) health clinic when two or more hospitals or the parent
18 corporations of the hospitals own or control the health clinic

19 for the purpose of reducing the cost of health services or when
20 the health clinic receives federal funds through the United States
21 Public Health Service for the purpose of serving populations that

22 are medically underserved, (iii) skilled nursing facility, (iv)
23 intermediate care facility, (v) assisted-living facility, (vi)
24 intermediate care facility for the mentally retarded, (vii) nursing

25 facility, (viii) home health agency, (ix) hospice or hospice
26 service, or (x) respite care service licensed under the Health Care
27 Facility Licensure Act, (f) any nonprofit licensed child-caring

1 agency, (g) any nonprofit licensed child placement agency, or (h)
2 any nonprofit organization certified by the Department of Health
3 and Human Services to provide community-based services for persons
4 with developmental disabilities.

5 (2) Any organization listed in subsection (1) of this
6 section shall apply for an exemption on forms provided by the
7 Tax Commissioner. The application shall be approved and a numbered
8 certificate of exemption received by the applicant organization in
9 order to be exempt from the sales and use tax.

10 (3) The appointment of purchasing agents shall be
11 recognized for the purpose of altering the status of the
12 construction contractor as the ultimate consumer of building
13 materials which are physically annexed to the structure and
14 which subsequently belong to the owner of the organization or
15 institution. The appointment of purchasing agents shall be in
16 writing and occur prior to having any building materials annexed
17 to real estate in the construction, improvement, or repair. The
18 contractor who has been appointed as a purchasing agent may apply
19 for a refund of or use as a credit against a future use tax
20 liability the tax paid on inventory items annexed to real estate
21 in the construction, improvement, or repair of a project for a
22 licensed not-for-profit institution.

23 (4) Any organization listed in subsection (1) of this
24 section which enters into a contract of construction, improvement,
25 or repair upon property annexed to real estate without first
26 issuing a purchasing agent authorization to a contractor or
27 repairperson prior to the building materials being annexed to

1 real estate in the project may apply to the Tax Commissioner for
2 a refund of any sales and use tax paid by the contractor or
3 repairperson on the building materials physically annexed to real
4 estate in the construction, improvement, or repair.

5 (5) Any person purchasing, storing, using, or
6 otherwise consuming building materials in the performance of any
7 construction, improvement, or repair by or for any institution
8 enumerated in subsection (1) of this section which is licensed upon
9 completion although not licensed at the time of construction or
10 improvement, which building materials are annexed to real estate
11 and which subsequently belong to the owner of the institution,
12 shall pay any applicable sales or use tax thereon. Upon becoming
13 licensed and receiving a numbered certificate of exemption,
14 the institution organized not for profit shall be entitled to
15 a refund of the amount of taxes so paid in the performance
16 of such construction, improvement, or repair and shall submit
17 whatever evidence is required by the Tax Commissioner sufficient
18 to establish the total sales and use tax paid upon the building
19 materials physically annexed to real estate in the construction,
20 improvement, or repair.

21 Sec. 24. Section 85-943, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 85-943 The University of Nebraska may continue to
24 offer the associate degree, diploma, and ~~certificate-in-course~~
25 certificate in agriculturally related fields, radiologic
26 technology, radiation therapy, nuclear medicine technology,
27 and engineering technology if approved by the Coordinating

1 Commission for Postsecondary Education pursuant to sections 85-1413
2 and 85-1414 upon the demonstration of a compelling need and
3 unique capacity by the university to offer such programs. The
4 University of Nebraska shall not offer associate degrees or less
5 than associate-degree-level diplomas or ~~certificates-in-course~~
6 certificates in other than authorized and approved programs.
7 If approved by the Coordinating Commission for Postsecondary
8 Education pursuant to sections 85-1413 and 85-1414, the University
9 of Nebraska may offer certificates within fields in addition to
10 those specified in this section if the preponderance of courses
11 comprising those certificates are above the associate-degree level.

12 Sec. 25. Section 85-961, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 85-961 The community colleges shall have, except in
15 specified program areas authorized by statute and the Coordinating
16 Commission for Postsecondary Education, sole responsibility for the
17 award of associate degrees, diplomas, and ~~certificates in less~~
18 ~~than baccalaureate degree program areas~~ certificates comprised of
19 courses at the associate-degree level or below and approved by the
20 commission pursuant to sections 85-1413 and 85-1414.

21 Sec. 26. Section 85-1412, Revised Statutes Cumulative
22 Supplement, 2010, is amended to read:

23 85-1412 The commission shall have the following
24 additional powers and duties:

25 (1) Conduct surveys and studies as may be necessary to
26 undertake the coordination function of the commission pursuant
27 to section 85-1403 and request information from governing

1 boards and appropriate administrators of public institutions and
2 other governmental agencies for research projects. All public
3 institutions and governmental agencies receiving state funds
4 shall comply with reasonable requests for information under this
5 subdivision. Public institutions may comply with such requests
6 pursuant to section 85-1417;

7 (2) Recommend to the Legislature and the Governor
8 legislation it deems necessary or appropriate to improve
9 postsecondary education in Nebraska and any other legislation it
10 deems appropriate to change the role and mission provisions in
11 sections 85-917 to 85-966.01;

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

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

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

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

11 (7) Administer the Access College Early Scholarship
12 Program Act, and the Nebraska Opportunity Grant Act, and the
13 Postsecondary Institution Act;

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

23 ~~(9) Consistent with section 85-1620, approve, in a~~
24 ~~timely manner, new baccalaureate degree programs to be offered~~
25 ~~at private postsecondary career schools as defined in section~~
26 ~~85-1603. The commission may charge a reasonable fee based on~~
27 ~~its administrative costs for authorizations pursuant to this~~

1 ~~subdivision and section 85-1620. The commission shall report such~~
2 ~~action to the Commissioner of Education;~~

3 ~~(10) Pursuant to sections 85-1101 to 85-1104, authorize~~
4 ~~out-of-state institutions of higher or postsecondary education to~~
5 ~~offer courses or degree programs in this state;~~

6 ~~(11) Pursuant to sections 85-1105 to 85-1111, approve~~
7 ~~or disapprove petitions to establish new private colleges in this~~
8 ~~state;~~

9 ~~(12) (9) On or before December 1, 2000, and on or~~
10 ~~before December 1 every two years thereafter, of each even-numbered~~
11 ~~year, submit to the Legislature and the Governor a report of its~~
12 ~~objectives and activities and any new private colleges in Nebraska~~
13 ~~and the implementation of any recommendations of the commission for~~
14 ~~the preceding two calendar years;~~

15 ~~(13) (10) Provide staff support for interstate compacts~~
16 ~~on postsecondary education;~~

17 ~~(14) (11) Request inclusion of the commission in any~~
18 ~~existing grant review process and information system; and~~

19 ~~(12) In collaboration with the State Department~~
20 ~~of Education, public and private postsecondary educational~~
21 ~~institutions, private, denominational, or parochial secondary~~
22 ~~schools, educational service units, and school districts, conduct~~
23 ~~a study regarding the need for uniform policies and practices for~~
24 ~~dual-enrollment courses and career academies in Nebraska, including~~
25 ~~transferability of dual-enrollment courses and consistency of~~
26 ~~administration of career academies. The study shall also include~~
27 ~~a review of any program that provides Nebraska high school~~

1 students with the opportunity to earn college credit or advanced
2 placement through participation in courses and examinations
3 administered by a not-for-profit organization and of the need
4 for uniform policies and practices related to the acceptance
5 and transferability of such courses and the college credit or
6 advanced placement earned as a result of a student's performance
7 on such examinations. The commission shall report the findings of
8 such study and its recommendations, including recommendations for
9 possible legislation, to the Legislature on or before December 15,
10 2011. For purposes of this subdivision, dual-enrollment course has
11 the same definition as provided in section 79-1201.01.

12 ~~(15) Facilitate a study that explores the following~~
13 ~~issues related to the Nebraska community college system;~~

14 ~~(a) The need for changes to the statutory role and~~
15 ~~mission of Nebraska community colleges;~~

16 ~~(b) Changes in the weighting of courses that may be~~
17 ~~necessary for reimbursable educational units to properly reflect~~
18 ~~the role and mission of Nebraska community colleges and the cost of~~
19 ~~providing such courses;~~

20 ~~(c) Powers, duties, and mission of the Nebraska Community~~
21 ~~College Association or its successor and whether membership in such~~
22 ~~an association should be required;~~

23 ~~(d) Consequences for failing to satisfy current community~~
24 ~~college association membership requirements contained in section~~
25 ~~85-1502; and~~

26 ~~(e) State coordination of community colleges in the~~
27 ~~absence of a community college association or membership therein.~~

1 ~~The commission shall include and facilitate discussion~~
2 ~~among the state's community colleges in the completion of such~~
3 ~~study. Each community college shall participate in good faith with~~
4 ~~the conduct of such study. The commission shall report its findings~~
5 ~~to the Legislature on or before December 15, 2009.~~

6 Sec. 27. Section 85-1604, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 85-1604 The following education and schools are exempted
9 from the Private Postsecondary Career School Act:

10 (1) Schools exclusively offering instruction at any or
11 all levels from preschool through the twelfth grade;

12 (2) Education sponsored by a bona fide trade, business,
13 professional, or fraternal organization which is offered solely for
14 that organization's membership or offered without charge;

15 (3) Education provided by or funded by an employer and
16 offered solely to its employees for the purpose of improving such
17 persons in such employment;

18 (4) Education solely avocational or recreational in
19 nature as determined by the department;

20 (5) Educational programs offered by a charitable
21 institution, organization, or agency as long as such education
22 or training is not advertised or promoted as leading toward
23 occupational objectives;

24 (6) Public postsecondary schools established, operated,
25 and governed by this state or its political subdivisions;

26 (7) ~~Except as provided in subdivision (9) of this~~
27 ~~section, schools~~ Schools or organizations offering education or

1 instruction that is not part of a degree program leading to an
2 associate, a baccalaureate, a graduate, or a professional degree
3 which are licensed and regulated by agencies of this state other
4 than the department, as of September 2, 1977, except that such
5 schools or organizations shall not be exempt from the act with
6 respect to agents' permits and the Tuition Recovery Cash Fund;

7 (8) Schools or organizations which offer education or
8 instruction and which are licensed and regulated solely by an
9 agency of the federal government with respect to curriculum and
10 qualifications of instructional staff;

11 ~~(9) Not-for-profit private colleges, universities, and~~
12 ~~entities (a) which awarded baccalaureate or higher degrees prior to~~
13 ~~May 27, 2003, which maintain and operate educational programs for~~
14 ~~which credit is given, and which are in compliance with sections~~
15 ~~85-1105 to 85-1111 or (b) which award baccalaureate or higher~~
16 ~~degrees, which maintain and operate educational programs for which~~
17 ~~credit is given, which are in compliance with sections 85-1105 to~~
18 ~~85-1111, and which are regionally accredited;~~

19 ~~(10) For-profit colleges, universities, and entities~~
20 ~~which award baccalaureate or higher degrees, which are in~~
21 ~~compliance with sections 85-1105 to 85-1111, and which are~~
22 ~~regionally accredited;~~

23 ~~(11) Institutions which have previously been regulated~~
24 ~~as private postsecondary career schools pursuant to the Private~~
25 ~~Postsecondary Career School Act, which have become regionally~~
26 ~~accredited, and which have been approved by the commission to~~
27 ~~offer baccalaureate degrees or higher pursuant to sections 85-1105~~

1 to ~~85-1111~~. Institutions which have previously been regulated as
2 private postsecondary career schools and which have been approved
3 by the commission to offer baccalaureate degrees pursuant to
4 sections 85-1105 to 85-1111 but which have not become regionally
5 accredited shall remain under the jurisdiction of the State
6 Department of Education and subject to the Private Postsecondary
7 Career School Act; and

8 (9) Any postsecondary institution offering or proposing
9 to offer courses or programs leading to a baccalaureate, graduate,
10 or professional degree, but whose offerings may include associate
11 degree programs, diplomas, and other certificates based on the
12 award of college credit, including any institutions regulated
13 before the effective date of this act as private postsecondary
14 career schools pursuant to the Private Postsecondary Career School
15 Act; and

16 ~~(12)~~ (10) Entities exclusively offering short-term
17 training.

18 Sec. 28. Section 85-1620, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 85-1620 ~~(1)~~ A school which has been accredited pursuant
21 to section 85-1619 may apply to the department for authority
22 to award associate degrees. Upon determining that the quality
23 of the courses of instruction at the applicant school meets the
24 standards established in the department's rules and regulations,
25 the commissioner may grant the applicant the authority to award
26 an associate degree and shall issue a certificate setting forth
27 the programs for which the associate degree may be awarded.

1 Such authorization shall continue so long as the school remains
2 accredited.

3 ~~(2) A school which has been accredited pursuant to~~
4 ~~section 85-1619 may apply to the department for authority to~~
5 ~~award baccalaureate degrees. The department shall refer such degree~~
6 ~~applications to the commission for its review and approval. Within~~
7 ~~ninety days after receipt of such referral, the commission shall~~
8 ~~make a determination setting forth the specific program area and~~
9 ~~the name of the baccalaureate degree program. The commission shall~~
10 ~~report its determination to the commissioner who shall issue a~~
11 ~~certificate setting forth the programs for which the baccalaureate~~
12 ~~degree may be awarded. Such authorization shall continue so long as~~
13 ~~the school remains accredited.~~

14 Sec. 29. Section 85-1643, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 85-1643 (1) The Private Postsecondary Career Schools
17 Cash Fund is created. All fees collected pursuant to the Private
18 Postsecondary Career School Act shall be remitted to the State
19 Treasurer for credit to the fund. The fund shall be used only for
20 the purpose of administering the act. No fees shall be subject to
21 refund.

22 (2) Except as provided in subsection (4) of this section,
23 fees collected pursuant to the act shall be the following:

24 (a) Initial application for authorization to operate, two
25 hundred dollars plus twenty dollars per program of study offered;

26 (b) Renewal application for authorization to operate, one
27 hundred dollars plus twenty dollars per program of study offered,

1 except that the board may establish a variable fee schedule based
2 upon the prior school year's gross tuition revenue as provided by
3 the school pursuant to section 85-1656;

4 (c) Approval to operate a branch facility, one hundred
5 dollars;

6 (d) Late submission of application, fifty dollars;

7 (e) Initial agent's permit, fifty dollars;

8 (f) Agent's permit renewal, twenty dollars;

9 (g) Accreditation or reaccreditation, one hundred
10 dollars;

11 (h) Initial authorization to award an associate degree,
12 one hundred dollars;

13 ~~(i) Initial authorization to offer a baccalaureate~~
14 ~~degree, two hundred dollars;~~

15 ~~(j) (i) Significant program change, fifty dollars;~~

16 ~~(k) (j) Change of name or location, twenty-five dollars;~~

17 and

18 ~~(l) (k) Additional new program, one hundred dollars.~~

19 (3) Fees for out-of-state schools may include, but shall
20 not exceed the following:

21 (a) Certificate of approval to recruit, five hundred
22 dollars annually;

23 (b) Initial agent's permit, one hundred dollars; and

24 (c) Agent's permit renewal, forty dollars.

25 (4) (a) The board shall consult with the advisory council
26 established pursuant to section 85-1607 regarding any increase
27 in fees under the act. ~~The board may increase fees by not~~

1 ~~more than twenty percent for each year of fiscal years 2003-04,~~
2 ~~2004-05,~~ and ~~2005-06.~~ Beginning with fiscal year 2006-07 and
3 each year thereafter, the board in consultation with the advisory
4 council shall establish fees sufficient to cover the total cost of
5 administration, except that such fees shall not exceed one hundred
6 ten percent of the previous year's total cost. Such fees shall be
7 set out in the rules and regulations adopted and promulgated by the
8 board.

9 (b) Total cost of administration shall be determined by
10 an annual audit of:

11 (i) Salaries and benefits or portions thereof for those
12 department employees who administer the act;

13 (ii) Operating costs such as rent, utilities, and
14 supplies;

15 (iii) Capital costs such as office equipment, computer
16 hardware, and computer software;

17 (iv) Costs for travel by employees of the department,
18 including car rental, gas, and mileage charges; and

19 (v) Other reasonable and necessary costs as determined by
20 the board.

21 Sec. 30. Original sections 77-2704.12, 85-943, 85-961,
22 85-1604, 85-1620, and 85-1643, Reissue Revised Statutes of
23 Nebraska, section 85-1412, Revised Statutes Cumulative Supplement,
24 2010, and section 38-2622, Reissue Revised Statutes of Nebraska,
25 as amended by section 4, Legislative Bill 334, One Hundred Second
26 Legislature, First Session, 2011, are repealed.

27 Sec. 31. The following sections are outright repealed:

1 Sections 85-1101, 85-1102, 85-1103, 85-1103.01, 85-1103.02,
2 85-1104, 85-1105, 85-1106, 85-1107, 85-1108, 85-1109, 85-1110,
3 85-1110.01, and 85-1111, Reissue Revised Statutes of Nebraska.

4 Sec. 32. Since an emergency exists, this act takes effect
5 when passed and approved according to law.