

E AND R AMENDMENTS TO LB546

Introduced by Murante, 49, Chairman Enrollment and Review

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

3 Section 1. Section 85-404, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 85-404 Either of the boards referred to in section 85-403
6 is hereby specifically authorized and empowered, by resolution
7 or agreement, to pledge all or any part of the revenue and
8 fees derived from the operation of the dormitories, residence
9 halls, single-dwelling or multiple-dwelling units, buildings, and
10 facilities for parking and other facilities for housing, boarding,
11 athletic purposes, medical care, and physical development and
12 other activities of students, faculties, or employees of such
13 institutions referred to in section 85-403, or any of them, erected
14 or acquired, or previously erected or acquired by such board,
15 and contract as to the care, insurance, management, and operation
16 of such buildings and facilities and the charges to be made and
17 the rights of the holders of the revenue bonds. When the board
18 contracts that the operation of any building or facility or part
19 thereof shall be performed other than by the board itself, the
20 board shall at all times maintain supervision thereof and control
21 over the fees and charges imposed for the use thereof.

22 When such board proposes to pledge all or any part
23 of the revenue and fees from buildings and facilities other

1 than the building or facility to be constructed, the plans for
2 such building or facility to be constructed, including financing
3 plans, shall ~~first~~ be reviewed by the ~~Coordinating Commission for~~
4 ~~Postsecondary Education as provided in section 85-1415~~ and approved
5 or disapproved by the Legislature or, if the Legislature is not
6 in session, the Executive Board of the Legislative Council, ~~as~~
7 ~~provided in such section.~~

8 Sec. 2. Section 85-408, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 85-408 The boards are authorized and directed to
11 establish and maintain such schedule of rates, fees, or charges for
12 the use of the facilities afforded by the buildings constructed
13 or acquired under sections 85-401 to 85-411 and other facilities
14 controlled by such board, the revenue of which in whole or in
15 part is pledged to the holder of the bonds, which shall be in
16 an amount at least sufficient on the amortization plan to pay
17 the operating and maintenance charges thereof and the principal
18 and interest representing the indebtedness against the income and
19 revenue therefrom and may be sufficient in amount to provide
20 for such bond reserve, replacement, and surplus funds as the
21 boards in their discretion shall determine. The amounts in such
22 funds shall be expended for such purposes in connection with the
23 facilities as the boards shall determine, and any amount in any
24 surplus or replacement fund and any amounts received through the
25 sale, condemnation, or destruction of any facilities may be used
26 to construct, repair, or replace any of the types of facilities
27 described in section 85-403. Any amounts in such funds are

1 specifically appropriated to the purposes of such funds and shall
2 at all times be subject to the orders of the boards accordingly.

3 Before any single expenditure in excess of five hundred
4 thousand dollars is made from any such surplus or replacement fund,
5 the board concerned shall first submit such proposed expenditure
6 to the ~~Coordinating Commission for Postsecondary Education for~~
7 ~~review as provided in section 85-1415~~ and secure the approval or
8 disapproval of the Legislature or, if the Legislature is not in
9 session, of the Executive Board of the Legislative Council, as
10 provided in such section.

11 Sec. 3. All capital construction projects, including
12 applicable financing plans, proposed by any nonprofit corporation
13 created by the Board of Regents of the University of Nebraska
14 or the Board of Trustees of the Nebraska State Colleges shall be
15 submitted to the Legislature for review and approval or disapproval
16 by the Legislature, or if the Legislature is not in session,
17 the Executive Board of the Legislative Council, when (1) state
18 general funds, (2) funds received by the University of Nebraska or
19 any state college for the purposes of reimbursing overhead costs
20 and expenses in connection with any federal or other grant or
21 contract, (3) tuition, or (4) the state's operating investment pool
22 investment income constitutes all or any part of the funds used for
23 the repayment of all or any part of the bonds of such nonprofit
24 corporation.

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

27 85-1413 (1) Pursuant to the authority granted in

1 Article VII, section 14, of the Constitution of Nebraska and
2 the Coordinating Commission for Postsecondary Education Act, the
3 commission shall establish and revise as needed a comprehensive
4 statewide plan for postsecondary education which shall include (a)
5 definitions of the role and mission of each public postsecondary
6 educational institution within any general assignments of role
7 and mission as prescribed in sections 85-917 to 85-966 and (b)
8 a plan for facilities which utilize tax funds designated by the
9 Legislature.

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

20 (3) In establishing the plan, the commission shall assess
21 the postsecondary educational needs of the state in the following
22 areas:

- 23 (a) The basic and continuing needs of various age groups;
24 (b) Business and industrial needs for a skilled work
25 force;
26 (c) Demographic, social, and economic trends;
27 (d) The needs of the ethnic populations;

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

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

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

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

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

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

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

25 (b) Recommended guidelines for admissions which recognize
26 selective and differentiated admission standards at public
27 institutions and which are consistent with the role and mission

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

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

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

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

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

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

15 (h) Effective use of information technologies and
16 telecommunications to aid in the delivery of instruction at the
17 postsecondary level. In cooperation with the Nebraska Educational
18 Telecommunications Commission, other state agencies, and, when
19 appropriate, representatives of elementary and secondary public
20 education, the commission may assist in the development of
21 instructional delivery systems employing information technologies
22 and telecommunications. The commission, with the involvement
23 of faculties, public institutions and private postsecondary
24 educational institutions, and the information technology and
25 telecommunications community, shall establish policies to ensure
26 that the objectives of quality and efficiency are met in the
27 delivery of information technology and telecommunications-aided

1 instruction;

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

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

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

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

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

23 Sec. 5. Section 85-1416, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 85-1416 (1) Pursuant to the authority granted in
26 Article VII, section 14, of the Constitution of Nebraska and
27 the Coordinating Commission for Postsecondary Education Act, the

1 commission shall, in accordance with the coordination function of
2 the commission pursuant to section 85-1403, review and modify, if
3 needed to promote compliance and consistency with the comprehensive
4 statewide plan and prevent unnecessary duplication, the budget
5 requests of the governing boards.

6 (2)(a) At least thirty days prior to submitting to
7 the Governor their biennial budget requests pursuant to section
8 81-1113 and any major deficit appropriation requests pursuant
9 to instructions of the Department of Administrative Services,
10 the Board of Regents of the University of Nebraska and the
11 Board of Trustees of the Nebraska State Colleges shall each
12 submit to the commission an outline of its proposed operating
13 budget. The outline of its proposed operating budget or outline
14 of proposed state aid request shall include those information
15 summaries provided to the institution's governing board describing
16 the respective institution's budget for the next fiscal year or
17 biennium. The outline shall contain projections of funds necessary
18 for (i) the retention of current programs and services at current
19 funding levels, (ii) any inflationary costs necessary to maintain
20 current programs and services at the current programmatic or
21 service levels, and (iii) proposed new and expanded programs and
22 services. In addition to the outline, the commission may request
23 an institution to provide to the commission any other supporting
24 information to assist the commission in its budget review process.
25 An institution may comply with such requests pursuant to section
26 85-1417.

27 (b) On September 15 of each biennial budget request

1 year, the boards of governors of the community colleges or their
2 designated representatives shall submit to the commission outlines
3 of their proposed state aid requests.

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

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

25 (4) Nothing in this section shall be construed to affect
26 other constitutional, statutory, or administrative requirements for
27 the submission of budget or state aid requests by the governing

1 boards to the Governor and the Legislature.

2 Sec. 6. Section 85-1418, Revised Statutes Supplement,
3 2013, is amended to read:

4 85-1418 (1) No state warrant shall be issued by the
5 Department of Administrative Services or used by any public
6 institution for the purpose of funding any program or capital
7 construction project which has not been approved or which has
8 been disapproved by the commission pursuant to the Coordinating
9 Commission for Postsecondary Education Act. If state funding for
10 any such program or project cannot be or is not divided into
11 warrants separate from other programs or projects, the department
12 shall reduce a warrant to the public institution which includes
13 funding for the program or project by the amount of tax funds
14 designated by the Legislature which are budgeted in that fiscal
15 year by the public institution for use for the program or project.

16 (2) Until July 1, 2013, the department may reduce the
17 amount of state aid distributed to a community college area
18 pursuant to the Community College Aid Act, or for fiscal years
19 2010-11, 2011-12, and 2012-13 pursuant to section 90-517, by the
20 amount of funds used by the area to provide a program or capital
21 construction project which has not been approved or which has been
22 disapproved by the commission.

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

27 (4) Any person or public institution aggrieved by a

1 final order of the commission entered pursuant to section 85-1413,
2 85-1414, ~~85-1415~~, or 85-1416 shall be entitled to judicial review
3 of the order. Proceedings for review shall be instituted by filing
4 a petition in the district court of Lancaster County within thirty
5 days after public notice of the final decision by the commission
6 is given. The filing of the petition or the service of summons
7 upon the commission shall not stay enforcement of such order. The
8 review shall be conducted by the court without a jury on the
9 record of the commission. The court shall have jurisdiction to
10 enjoin enforcement of any order of the commission which is (a)
11 in violation of constitutional provisions, (b) in excess of the
12 constitutional or statutory authority of the commission, (c) made
13 upon unlawful procedure, or (d) affected by other error of law.

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

18 Sec. 7. Original sections 85-404 and 85-408, Reissue
19 Revised Statutes of Nebraska, sections 85-1413 and 85-1416, Revised
20 Statutes Cumulative Supplement, 2012, and section 85-1418, Revised
21 Statutes Supplement, 2013, are repealed.

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

24 2. On page 1, strike lines 3 through 8 and insert
25 "sections 85-1413 and 85-1416, Revised Statutes Cumulative
26 Supplement, 2012, and section 85-1418, Revised Statutes Supplement,
27 2013; to eliminate and change provisions relating to the review of

1 certain capital construction projects as prescribed; to harmonize
2 provisions; to repeal the original sections; and to outright repeal
3 section 85-1415, Revised Statutes Cumulative Supplement, 2012."