

LEGISLATURE OF NEBRASKA
 ONE HUNDRED SECOND LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 637

Final Reading

Introduced by Adams, 24.

Read first time January 19, 2011

Committee: Education

A BILL

1 FOR AN ACT relating to education; to amend sections 77-2704.12,
 2 79-757, 85-943, 85-961, 85-1604, 85-1620, and 85-1643,
 3 Reissue Revised Statutes of Nebraska, sections 85-1412
 4 and 85-2105, Revised Statutes Cumulative Supplement,
 5 2010, section 38-2622, Reissue Revised Statutes of
 6 Nebraska, as amended by section 4, Legislative Bill 334,
 7 One Hundred Second Legislature, First Session, 2011, and
 8 section 9-812, Revised Statutes Cumulative Supplement,
 9 2010, as amended by section 1, Legislative Bill 333, One
 10 Hundred Second Legislature, First Session, 2011; to adopt
 11 the Postsecondary Institution Act; to provide and
 12 eliminate sales tax exemption provisions, authorization
 13 requirements, and penalties relating to out-of-state
 14 institutions of higher education and private colleges; to
 15 change provisions relating to the Education Innovation
 16 Fund, the Nebraska Optometry Education Assistance

1 Contract Program, authorized offerings of the University
2 of Nebraska and community colleges, the Private
3 Postsecondary Career School Act, and the Access College
4 Early Scholarship Program; to provide for a pilot project
5 for the administration of a standard college admission
6 test; to provide and eliminate duties of the Coordinating
7 Commission for Postsecondary Education; to harmonize
8 provisions; to repeal the original sections; to outright
9 repeal sections 85-1101, 85-1102, 85-1103, 85-1103.01,
10 85-1103.02, 85-1104, 85-1105, 85-1106, 85-1107, 85-1108,
11 85-1109, 85-1110, 85-1110.01, and 85-1111, Reissue
12 Revised Statutes of Nebraska; and to declare an
13 emergency.

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

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

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

8 Sec. 3. For purposes of the Postsecondary Institution
9 Act:

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

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

15 (3) Commission means the Coordinating Commission for
16 Postsecondary Education;

17 (4)(a) Establishing a physical presence means:

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

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

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

1 (ii) Establishing an administrative office in this state,
2 including:

3 (A) Maintaining an administrative office in this state
4 for purposes of enrolling students, providing information to students
5 about the institution, or providing student support services;

6 (B) Providing office space to staff, whether
7 instructional or noninstructional staff; or

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

9 (b) Physical presence does not include:

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

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

15 (iii) An educational experience arranged for an
16 individual student, such as a clinical, practicum, residency, or
17 internship; or

18 (iv) Courses offered online or through the United States
19 mail or similar delivery service which do not require the physical
20 meeting of a student with instructional staff;

21 (5) Executive director means the executive director of
22 the commission or his or her designee;

23 (6) Nebraska public postsecondary institution means any
24 public institution established, operated, and governed by this state
25 or any of its political subdivisions that provides postsecondary

1 education;

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

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

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

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

20 Sec. 5. The commission has the following powers and
21 duties:

22 (1) To establish levels of authorization to operate based
23 on institutional offerings;

24 (2) To receive, investigate as it may deem necessary, and
25 act upon applications for authorization to operate and applications

1 to renew an authorization to operate;

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

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

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

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

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

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

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

23 Sec. 6. The commission shall adopt and promulgate rules
24 and regulations to establish minimum standards according to which a
25 postsecondary institution shall be authorized to operate within the

1 state, and upon failure to operate according to such standards, the
2 postsecondary institution shall be subject to the suspension or
3 revocation of the authorization to operate. An institution shall
4 demonstrate that it can be maintained and operated in accordance with
5 such standards. The standards shall include, but not be 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 adequate
17 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;

1 (7) The institution's policies and procedures related to
2 students, including, but not limited to, recruiting and admissions
3 practices;

4 (8) The tuition refund policy for an institution that
5 does not participate in federal financial aid programs described in
6 Title IV of the federal Higher Education Act of 1965, 20 U.S.C. 1001
7 et seq., as such act existed on January 1, 2011; and

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

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

12 (1) Any institution or organization which offers
13 education or instruction and which is licensed and regulated solely
14 by an agency of the federal government with respect to curriculum and
15 qualifications of instructional staff; or

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

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

21 Sec. 9. No postsecondary institution authorized to
22 operate under the Postsecondary Institution Act shall charge tuition
23 or fees for more than one academic term or require a student to sign
24 loan documents for more than one academic year.

25 Sec. 10. (1) On the effective date of this act, the

1 following institutions shall be deemed to have authorization to
2 operate on a continuing basis:

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

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

12 (c) All Nebraska public postsecondary institutions.

13 (2) Nothing in this section shall provide any additional
14 authority to the commission to regulate any institution deemed to
15 have authorization to operate on a continuing basis.

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

22 (2) Any postsecondary institution authorized to operate
23 by the commission or other state agency prior to the effective date
24 of this act and not deemed to have authority to operate on a
25 continuing basis pursuant to section 10 of this act shall apply to

1 the commission for a renewal of the authorization to operate between
2 October 1, 2011, and December 31, 2011. If the institution fails to
3 apply on or before December 31, 2011, the original authorization to
4 operate shall terminate on January 1, 2012.

5 (3) Any postsecondary institution that has not
6 established a physical presence as of the effective date of this act
7 shall apply to the commission for authorization to operate as a new
8 institution and receive such authorization prior to commencing
9 operations in this state.

10 Sec. 12. (1) Except as otherwise provided in this
11 section, after review of an initial application for authorization to
12 operate, including any further information submitted by the applicant
13 as required by the commission and any investigation of the applicant
14 as the commission may deem necessary or appropriate, the commission
15 shall grant or deny the application for initial authorization to
16 operate. A grant of an initial authorization to operate may be on
17 such terms and conditions as the commission may specify. Such
18 authorization shall be for a five-year period unless the commission
19 determines that a shorter period of time is appropriate based on the
20 standards established pursuant to section 6 of this act.

21 (2) After review of an application to renew an
22 authorization to operate, including any further information submitted
23 by the applicant as required by the commission and any investigation
24 of the applicant as the commission may deem necessary or appropriate,
25 the commission shall grant or deny the application for renewal of an

1 authorization to operate. Renewal of an authorization to operate may
2 be on such terms and conditions as the commission may specify. Such
3 authorization shall be for a five-year period unless the commission
4 determines that a shorter renewal period is appropriate based on the
5 standards established pursuant to section 6 of this act. If the
6 applicant has, for at least twenty academic years under the same
7 ownership, continuously offered one or more four-year undergraduate
8 programs with a physical presence in Nebraska in compliance with
9 state and federal law, the commission shall grant authorization to
10 operate on a continuing basis unless the commission determines that
11 an additional review period is appropriate based on the standards
12 established pursuant to section 6 of this act.

13 (3) Except as otherwise provided in this section,
14 modifications, as defined by the commission in rules and regulations,
15 to an existing authorization to operate, but not to an authorization
16 to operate on a continuing basis, shall require an application to the
17 commission. After review of the application, including any further
18 information submitted by the applicant as required by the commission
19 and any investigation of the applicant as the commission may deem
20 necessary or appropriate, the commission shall grant or deny the
21 application. Approval of the application may be on such terms and
22 conditions as the commission may specify. Such authorization shall
23 replace the existing authorization to operate and shall be for a
24 five-year period unless the commission determines that a shorter
25 period of time is appropriate based on the standards established

1 pursuant to section 6 of this act.

2 (4) If an application for an initial authorization to
3 operate or a modification to an existing authorization to operate
4 includes a request to establish a new campus in this state, as
5 defined by the commission in rules and regulations, the commission
6 shall hold a public hearing. The hearing shall be scheduled following
7 a completed review of the application for authorization to operate or
8 the modification of an authorization to operate, including any
9 further information submitted by the applicant as required by the
10 commission and any investigation of the applicant as the commission
11 may deem necessary or appropriate, and shall be conducted according
12 to the Administrative Procedure Act. After the public hearing, the
13 commission shall grant or deny the application. A grant of
14 authorization to operate or the modification of an authorization to
15 operate may be on such terms and conditions as the commission may
16 specify. Such authorization or modification shall be for a five-year
17 period unless the commission determines that a shorter period of time
18 is appropriate based on the standards established pursuant to section
19 6 of this act.

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

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

25 (2) The full and correct name and address of the

1 institution authorized to operate;

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

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

6 Sec. 14. Any postsecondary institution authorized to
7 operate which ceases to meet any of the requirements of the
8 Postsecondary Institution Act, any rules or regulations adopted and
9 promulgated under the act, or any terms or conditions specified by
10 the commission for authorization to operate under the act shall be
11 notified in writing of any such specific deficiency by certified
12 mail. A hearing shall be scheduled requiring the institution to show
13 cause why the authorization to operate should not be suspended or
14 revoked. The hearing shall be held according to the Administrative
15 Procedure Act. After the hearing, if the commission determines that
16 any requirements, rules or regulations, or terms and conditions have
17 been violated, the commission may suspend or revoke the authorization
18 to operate or may require action as a condition of continued
19 authorization to operate.

20 Sec. 15. The authorization to operate or authorization to
21 operate on a continuing basis shall be issued to the owner or
22 governing body of the postsecondary institution and shall be
23 nontransferable. If there is a change in ownership, as defined by the
24 commission in rules and regulations, the new owner or governing body
25 shall, within thirty days after the change of ownership, apply for a

1 new authorization to operate under the Postsecondary Institution Act,
2 and if the institution fails to apply within such time period, the
3 original authorization to operate shall terminate. An application for
4 a new authorization to operate may be deemed an application for
5 renewal of the institution's original authorization to operate.
6 Verification that all student records are transferred intact and in
7 good condition to the new owner shall accompany the application.

8 Sec. 16. At least ninety days prior to the expiration of
9 its authorization to operate, a postsecondary institution shall
10 complete and file with the commission an application form for renewal
11 of its authorization to operate. Financial stability information
12 shall accompany the application.

13 Sec. 17. (1) Any institution denied an authorization to
14 operate, a renewal of an authorization to operate, or an
15 authorization to operate on a continuing basis by the commission
16 shall have the right to a hearing and a review of such decision by
17 the commission. If upon written notification of a denial the
18 aggrieved party desires a hearing and review, such party shall notify
19 the commission in writing within ten business days after receipt of
20 notice by the commission. If the aggrieved party does not notify the
21 commission pursuant to this section, the action shall be deemed
22 final. Upon receipt of such notice from the aggrieved party, the
23 commission shall fix the time and place for a hearing and shall
24 notify the aggrieved party of such by certified mail. The hearing
25 shall be conducted according to the Administrative Procedure Act.

1 (2) A decision of the commission following such hearing
2 shall be deemed final subject to the right of judicial review
3 provided in the Administrative Procedure Act. All matters presented
4 at any such hearing shall be acted upon promptly by the commission,
5 and the commission shall notify all parties in writing of its
6 decision, which shall include a statement of findings and conclusions
7 upon all material issues of fact, law, or discretion presented at the
8 hearing and the appropriate rule, regulation, order, sanction,
9 relief, or denial thereof.

10 Sec. 18. (1) Any person claiming damage or loss as a
11 result of any act or practice by a postsecondary institution which is
12 a violation of the Postsecondary Institution Act, of the rules and
13 regulations adopted and promulgated under the act, or of standards
14 established pursuant to section 6 of this act may file with the
15 commission a complaint against such institution. The complaint shall
16 set forth the alleged violation and shall contain such other
17 information as may be required by the commission. A complaint may
18 also be filed with the commission by the executive director or the
19 Attorney General.

20 (2) If efforts by the commission to resolve the complaint
21 are not successful and if the commission deems it appropriate, the
22 commission may hold a hearing on such complaint after ten days'
23 written notice by certified mail, return receipt requested, to such
24 institution, giving notice of a time and place for the hearing on
25 such complaint. Such hearing shall be conducted in accordance with

1 the Administrative Procedure Act. If, upon all evidence at the
2 hearing, the commission finds that a postsecondary institution has
3 engaged in or is engaging in any act or practice which violates the
4 Postsecondary Institution Act, the rules and regulations adopted and
5 promulgated under the act, or the standards established pursuant to
6 section 6 of this act, the commission shall issue and cause to be
7 served upon such institution an order requiring such institution to
8 cease and desist from such act or practice. The commission may also,
9 as appropriate, based on its own investigation or the evidence
10 adduced at such hearing or both, commence an action:

11 (a) To revoke an institution's authorization to operate
12 if the institution does not have an authorization to operate on a
13 continuing basis; or

14 (b) To refer the complaint and all related evidence to
15 the Attorney General.

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

19 Sec. 20. The Attorney General or the county attorney of
20 the county in which a postsecondary institution is located, at the
21 request of the commission or on his or her own accord, may bring any
22 appropriate action or proceeding in any court of competent
23 jurisdiction to enforce the Postsecondary Institution Act.

24 Sec. 21. If it appears to the commission that any entity
25 is or has been violating the Postsecondary Institution Act or any of

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

15 Sec. 22. Section 9-812, Revised Statutes Cumulative
16 Supplement, 2010, as amended by section 1, Legislative Bill 333, One
17 Hundred Second Legislature, First Session, 2011, is amended to read:

18 9-812 (1) All money received from the operation of
19 lottery games conducted pursuant to the State Lottery Act in Nebraska
20 shall be credited to the State Lottery Operation Trust Fund, which
21 fund is hereby created. All payments of the costs of establishing and
22 maintaining the lottery games shall be made from the State Lottery
23 Operation Cash Fund. In accordance with legislative appropriations,
24 money for payments for expenses of the division shall be transferred
25 from the State Lottery Operation Trust Fund to the State Lottery

1 Operation Cash Fund, which fund is hereby created. All money
2 necessary for the payment of lottery prizes shall be transferred from
3 the State Lottery Operation Trust Fund to the State Lottery Prize
4 Trust Fund, which fund is hereby created. The amount used for the
5 payment of lottery prizes shall not be less than forty percent of the
6 dollar amount of the lottery tickets which have been sold.

7 (2) Beginning October 1, 2003, a portion of the dollar
8 amount of the lottery tickets which have been sold on an annualized
9 basis shall be transferred from the State Lottery Operation Trust
10 Fund to the Education Innovation Fund, the Nebraska Opportunity Grant
11 Fund, the Nebraska Environmental Trust Fund, the Nebraska State Fair
12 Board, and the Compulsive Gamblers Assistance Fund. The dollar amount
13 transferred pursuant to this subsection shall equal the greater of
14 (a) the dollar amount transferred to the funds in fiscal year 2002-03
15 or (b) any amount which constitutes at least twenty-two percent and
16 no more than twenty-five percent of the dollar amount of the lottery
17 tickets which have been sold on an annualized basis. To the extent
18 that funds are available, the Tax Commissioner and director may
19 authorize a transfer exceeding twenty-five percent of the dollar
20 amount of the lottery tickets sold on an annualized basis.

21 (3) Of the money available to be transferred to the
22 Education Innovation Fund, the Nebraska Opportunity Grant Fund, the
23 Nebraska Environmental Trust Fund, the Nebraska State Fair Board, and
24 the Compulsive Gamblers Assistance Fund:

25 (a) The first five hundred thousand dollars shall be

1 transferred to the Compulsive Gamblers Assistance Fund to be used as
2 provided in section 71-817;

3 (b) Nineteen and three-fourths percent of the money
4 remaining after the payment of prizes and operating expenses and the
5 initial transfer to the Compulsive Gamblers Assistance Fund shall be
6 transferred to the Education Innovation Fund;

7 (c) Twenty-four and three-fourths percent of the money
8 remaining after the payment of prizes and operating expenses and the
9 initial transfer to the Compulsive Gamblers Assistance Fund shall be
10 transferred to the Nebraska Opportunity Grant Fund;

11 (d) Forty-four and one-half percent of the money
12 remaining after the payment of prizes and operating expenses and the
13 initial transfer to the Compulsive Gamblers Assistance Fund shall be
14 transferred to the Nebraska Environmental Trust Fund to be used as
15 provided in the Nebraska Environmental Trust Act;

16 (e) Ten percent of the money remaining after the payment
17 of prizes and operating expenses and the initial transfer to the
18 Compulsive Gamblers Assistance Fund shall be transferred to the
19 Nebraska State Fair Board if the most populous city within the county
20 in which the fair is located provides matching funds equivalent to
21 ten percent of the funds available for transfer. Such matching funds
22 may be obtained from the city and any other private or public entity,
23 except that no portion of such matching funds shall be provided by
24 the state. If the Nebraska State Fair ceases operations, ten percent
25 of the money remaining after the payment of prizes and operating

1 expenses and the initial transfer to the Compulsive Gamblers
2 Assistance Fund shall be transferred to the General Fund; and

3 (f) One percent of the money remaining after the payment
4 of prizes and operating expenses and the initial transfer to the
5 Compulsive Gamblers Assistance Fund shall be transferred to the
6 Compulsive Gamblers Assistance Fund to be used as provided in section
7 71-817.

8 (4)(a) The Education Innovation Fund is created. At least
9 seventy-five percent of the lottery proceeds allocated to the
10 Education Innovation Fund shall be available for disbursement.

11 (b) For fiscal year 2010-11, the Education Innovation
12 Fund shall be allocated as follows: The first one million dollars
13 shall be transferred to the Excellence in Teaching Cash Fund to fund
14 the Excellence in Teaching Act, and the amount remaining in the
15 Education Innovation Fund shall be allocated, after administrative
16 expenses, for distance education equipment and incentives pursuant to
17 sections 79-1336 and 79-1337.

18 (c) For fiscal year 2011-12, the Education Innovation
19 Fund shall be allocated as follows: (i) The first two hundred twenty-
20 five thousand dollars shall be transferred to the Excellence in
21 Teaching Cash Fund to fund the Attracting Excellence to Teaching
22 Program; (ii) the next three million three hundred sixty-five
23 thousand nine hundred sixty-two dollars shall be distributed to
24 school districts as grants pursuant to the Early Childhood Education
25 Grant Program; (iii) the next two million one hundred seventy-five

1 thousand six hundred seventy-three dollars shall be distributed to
2 local systems as grants for approved accelerated or differentiated
3 curriculum programs for students identified as learners with high
4 ability pursuant to section 79-1108.02; (iv) the next four hundred
5 ninety-one thousand five hundred forty-one dollars shall be used by
6 the State Department of Education for the development of an
7 integrated early childhood, elementary, secondary, and postsecondary
8 student information system; (v) the next four hundred fifty thousand
9 dollars shall fund the Center for Student Leadership and Extended
10 Learning Act; (vi) the next one hundred fourteen thousand six hundred
11 twenty-nine dollars shall fund the multicultural education program
12 created under section 79-720; (vii) the next one hundred twenty-three
13 thousand four hundred sixty-eight dollars shall be used by the
14 department to employ persons to investigate and prosecute alleged
15 violations as provided in section 79-868; ~~and~~-(viii) up to the next
16 one hundred sixty thousand dollars shall be used by the department to
17 implement section 26 of this act; and (ix) the amount remaining shall
18 be allocated, after administrative expenses, for distance education
19 equipment and incentives pursuant to sections 79-1336 and 79-1337.

20 (d) For fiscal year 2012-13, the Education Innovation
21 Fund shall be allocated as follows: (i) The first forty-five thousand
22 dollars shall be transferred to the Excellence in Teaching Cash Fund
23 to fund the Attracting Excellence to Teaching Program; (ii) the next
24 three million three hundred sixty-five thousand nine hundred sixty-
25 two dollars shall be distributed to school districts as grants

1 pursuant to the Early Childhood Education Grant Program; (iii) the
2 next two million one hundred seventy-five thousand six hundred
3 seventy-three dollars shall be distributed to local systems as grants
4 for approved accelerated or differentiated curriculum programs for
5 students identified as learners with high ability pursuant to section
6 79-1108.02; (iv) the next one hundred eight thousand one hundred
7 thirty-six dollars shall be used by the department for the
8 development of an integrated early childhood, elementary, secondary,
9 and postsecondary student information system; (v) the next four
10 hundred fifty thousand dollars shall fund the Center for Student
11 Leadership and Extended Learning Act; (vi) the next one hundred
12 fourteen thousand six hundred twenty-nine dollars shall be used by
13 the department to fund the multicultural education program created
14 under section 79-720; (vii) the next one hundred twenty-three
15 thousand four hundred sixty-eight dollars shall be used by the
16 department to employ persons to investigate and prosecute alleged
17 violations as provided in section 79-868; ~~and~~ (viii) up to the next
18 one hundred sixty thousand dollars shall be used by the department to
19 implement section 26 of this act; and (ix) the amount remaining shall
20 be allocated, after administrative expenses, for distance education
21 equipment and incentives pursuant to sections 79-1336 and 79-1337.

22 (e) For fiscal ~~years~~ year 2013-14, ~~through 2015-16,~~ the
23 Education Innovation Fund shall be allocated as follows: (i) The
24 first one million dollars shall be transferred to the Excellence in
25 Teaching Cash Fund to fund the Excellence in Teaching Act; (ii) the

1 next allocation shall be distributed to local systems as grants for
2 approved accelerated or differentiated curriculum programs for
3 students identified as learners with high ability pursuant to section
4 79-1108.02 in an aggregated amount up to the amount distributed in
5 the prior fiscal year for such purposes increased by the basic
6 allowable growth rate pursuant to section 79-1025; (iii) the next
7 allocation shall be used by the State Department of Education for the
8 integrated early childhood, elementary, secondary, and postsecondary
9 student information system in an aggregated amount up to the amount
10 used in the prior fiscal year for such purposes increased by the
11 basic allowable growth rate pursuant to section 79-1025; (iv) the
12 next allocation shall fund the Center for Student Leadership and
13 Extended Learning Act in an aggregated amount up to the amount used
14 in the prior fiscal year for such purposes increased by the basic
15 allowable growth rate pursuant to section 79-1025; (v) the next
16 allocation shall be used by the department to fund the multicultural
17 education program created under section 79-720 in an aggregated
18 amount up to the amount used in the prior fiscal year for such
19 purposes increased by the basic allowable growth rate pursuant to
20 section 79-1025; (vi) the next allocation shall be used by the
21 department to employ persons to investigate and prosecute alleged
22 violations as provided in section 79-868 in an aggregated amount up
23 to the amount used in the prior fiscal year for such purposes
24 increased by the basic allowable growth rate pursuant to section
25 79-1025; ~~and~~ (vii) up to the next one hundred sixty thousand dollars

1 shall be used by the department to implement section 26 of this act;
2 and (viii) the amount remaining shall be allocated, after
3 administrative expenses, for distance education equipment and
4 incentives pursuant to sections 79-1336 and 79-1337.

5 (f) For fiscal years 2014-15 and 2015-16, the Education
6 Innovation Fund shall be allocated as follows: (i) The first one
7 million dollars shall be transferred to the Excellence in Teaching
8 Cash Fund to fund the Excellence in Teaching Act; (ii) the next
9 allocation shall be distributed to local systems as grants for
10 approved accelerated or differentiated curriculum programs for
11 students identified as learners with high ability pursuant to section
12 79-1108.02 in an aggregated amount up to the amount distributed in
13 the prior fiscal year for such purposes increased by the basic
14 allowable growth rate pursuant to section 79-1025; (iii) the next
15 allocation shall be used by the State Department of Education for the
16 integrated early childhood, elementary, secondary, and postsecondary
17 student information system in an aggregated amount up to the amount
18 used in the prior fiscal year for such purposes increased by the
19 basic allowable growth rate pursuant to section 79-1025; (iv) the
20 next allocation shall fund the Center for Student Leadership and
21 Extended Learning Act in an aggregated amount up to the amount used
22 in the prior fiscal year for such purposes increased by the basic
23 allowable growth rate pursuant to section 79-1025; (v) the next
24 allocation shall be used by the department to fund the multicultural
25 education program created under section 79-720 in an aggregated

1 amount up to the amount used in the prior fiscal year for such
2 purposes increased by the basic allowable growth rate pursuant to
3 section 79-1025; (vi) the next allocation shall be used by the
4 department to employ persons to investigate and prosecute alleged
5 violations as provided in section 79-868 in an aggregated amount up
6 to the amount used in the prior fiscal year for such purposes
7 increased by the basic allowable growth rate pursuant to section
8 79-1025; and (vii) the amount remaining shall be allocated, after
9 administrative expenses, for distance education equipment and
10 incentives pursuant to sections 79-1336 and 79-1337.

11 ~~(f)~~ (g) For fiscal year 2016-17 and each fiscal year
12 thereafter, the Education Innovation Fund shall be allocated, after
13 administrative expenses, for education purposes as provided by the
14 Legislature.

15 (5) Any money in the State Lottery Operation Trust Fund,
16 the State Lottery Operation Cash Fund, the State Lottery Prize Trust
17 Fund, or the Education Innovation Fund available for investment shall
18 be invested by the state investment officer pursuant to the Nebraska
19 Capital Expansion Act and the Nebraska State Funds Investment Act.

20 (6) Unclaimed prize money on a winning lottery ticket
21 shall be retained for a period of time prescribed by rules and
22 regulations. If no claim is made within such period, the prize money
23 shall be used at the discretion of the Tax Commissioner for any of
24 the purposes prescribed in this section.

25 Sec. 23. Section 38-2622, Reissue Revised Statutes of

1 Nebraska, as amended by section 4, Legislative Bill 334, One Hundred
2 Second Legislature, First Session, 2011, is amended to read:

3 38-2622 Annual financial payments made under sections
4 38-2620 to 38-2623 shall be limited to students who participated in
5 or were accepted into the program in the academic year 2010-11 and
6 shall continue for the remaining academic year or years that any such
7 student is enrolled in an accredited school or college of optometry
8 subject to the limitation provided in section 38-2623.

9 Sec. 24. Section 77-2704.12, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 77-2704.12 (1) Sales and use taxes shall not be imposed
12 on the gross receipts from the sale, lease, or rental of and the
13 storage, use, or other consumption in this state of purchases by (a)
14 any nonprofit organization created exclusively for religious
15 purposes, (b) any nonprofit organization providing services
16 exclusively to the blind, (c) any nonprofit private educational
17 institution established under sections 79-1601 to 79-1607, (d) any
18 ~~nonprofit private college or university established under sections~~
19 ~~85-1101 to 85-1111, regionally or nationally accredited, nonprofit,~~
20 privately controlled college or university with its primary campus
21 physically located in Nebraska, (e) any nonprofit (i) hospital, (ii)
22 health clinic when two or more hospitals or the parent corporations
23 of the hospitals own or control the health clinic for the purpose of
24 reducing the cost of health services or when the health clinic
25 receives federal funds through the United States Public Health

1 Service for the purpose of serving populations that are medically
2 underserved, (iii) skilled nursing facility, (iv) intermediate care
3 facility, (v) assisted-living facility, (vi) intermediate care
4 facility for the mentally retarded, (vii) nursing facility, (viii)
5 home health agency, (ix) hospice or hospice service, or (x) respite
6 care service licensed under the Health Care Facility Licensure Act,
7 (f) any nonprofit licensed child-caring agency, (g) any nonprofit
8 licensed child placement agency, or (h) any nonprofit organization
9 certified by the Department of Health and Human Services to provide
10 community-based services for persons with developmental disabilities.

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

16 (3) The appointment of purchasing agents shall be
17 recognized for the purpose of altering the status of the construction
18 contractor as the ultimate consumer of building materials which are
19 physically annexed to the structure and which subsequently belong to
20 the owner of the organization or institution. The appointment of
21 purchasing agents shall be in writing and occur prior to having any
22 building materials annexed to real estate in the construction,
23 improvement, or repair. The contractor who has been appointed as a
24 purchasing agent may apply for a refund of or use as a credit against
25 a future use tax liability the tax paid on inventory items annexed to

1 real estate in the construction, improvement, or repair of a project
2 for a licensed not-for-profit institution.

3 (4) Any organization listed in subsection (1) of this
4 section which enters into a contract of construction, improvement, or
5 repair upon property annexed to real estate without first issuing a
6 purchasing agent authorization to a contractor or repairperson prior
7 to the building materials being annexed to real estate in the project
8 may apply to the Tax Commissioner for a refund of any sales and use
9 tax paid by the contractor or repairperson on the building materials
10 physically annexed to real estate in the construction, improvement,
11 or repair.

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

1 estate in the construction, improvement, or repair.

2 Sec. 25. Section 79-757, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 79-757 Sections 79-757 to 79-762 and section 26 of this
5 act shall be known and may be cited as the Quality Education
6 Accountability Act.

7 Sec. 26. Beginning with the 2011-12 school year, the
8 State Department of Education may implement a three-year pilot
9 project for the districtwide administration of a standard college
10 admission test, selected by the State Board of Education, to students
11 in the eleventh grade attending a public school in a participating
12 school district to determine if such test (1) would improve the
13 college-going rate and career readiness of Nebraska students and (2)
14 could be utilized as the assessment for the one grade in high school
15 as required under section 79-760.03. Participation by school
16 districts in the pilot project shall be voluntary and shall be
17 subject to the approval of the board. On or before September 1, 2012,
18 and on or before September 1 each year thereafter through 2014, the
19 department shall report to the Governor, the Clerk of the
20 Legislature, and the chairperson of the Education Committee of the
21 Legislature on the pilot project. The project shall be paid for with
22 funds from the Education Innovation Fund as provided in section
23 9-812.

24 Sec. 27. Section 85-943, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 85-943 The University of Nebraska may continue to offer
2 the associate degree, diploma, and ~~certificate-in-course~~ certificate
3 in agriculturally related fields, radiologic technology, radiation
4 therapy, nuclear medicine technology, and engineering technology if
5 approved by the Coordinating Commission for Postsecondary Education
6 pursuant to sections 85-1413 and 85-1414 upon the demonstration of a
7 compelling need and unique capacity by the university to offer such
8 programs. The University of Nebraska shall not offer associate
9 degrees or less than associate-degree-level diplomas or ~~certificates-~~
10 ~~in-course~~ certificates in other than authorized and approved
11 programs. If approved by the Coordinating Commission for
12 Postsecondary Education pursuant to sections 85-1413 and 85-1414, the
13 University of Nebraska may offer certificates within fields in
14 addition to those specified in this section if the preponderance of
15 courses comprising those certificates are above the associate-degree
16 level.

17 Sec. 28. Section 85-961, Reissue Revised Statutes of
18 Nebraska, is amended to read:

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

1 Sec. 29. Section 85-1412, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 85-1412 The commission shall have the following
4 additional powers and duties:

5 (1) Conduct surveys and studies as may be necessary to
6 undertake the coordination function of the commission pursuant to
7 section 85-1403 and request information from governing boards and
8 appropriate administrators of public institutions and other
9 governmental agencies for research projects. All public institutions
10 and governmental agencies receiving state funds shall comply with
11 reasonable requests for information under this subdivision. Public
12 institutions may comply with such requests pursuant to section
13 85-1417;

14 (2) Recommend to the Legislature and the Governor
15 legislation it deems necessary or appropriate to improve
16 postsecondary education in Nebraska and any other legislation it
17 deems appropriate to change the role and mission provisions in
18 sections 85-917 to 85-966.01;

19 (3) Establish any advisory committees as may be necessary
20 to undertake the coordination function of the commission pursuant to
21 section 85-1403 or to solicit input from affected parties such as
22 students, faculty, governing boards, administrators of the public
23 institutions, administrators of the private nonprofit institutions of
24 postsecondary education and proprietary institutions in the state,
25 and community and business leaders regarding the coordination

1 function of the commission;

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

6 (5) Seek a close liaison with the State Board of
7 Education and the State Department of Education in recognition of the
8 need for close coordination of activities between elementary and
9 secondary education and postsecondary education;

10 (6) Administer the Integrated Postsecondary Education
11 Data System or other information system or systems to provide the
12 commission with timely, comprehensive, and meaningful information
13 pertinent to the exercise of its duties. The information system shall
14 be designed to provide comparable data on each public institution.
15 The commission shall also administer the uniform information system
16 prescribed in sections 85-1421 to 85-1427 known as the Nebraska
17 Educational Data System. Public institutions shall supply the
18 appropriate data for the information system or systems required by
19 the commission;

20 (7) Administer the Access College Early Scholarship
21 Program Act, ~~and~~ the Nebraska Opportunity Grant Act, and the
22 Postsecondary Institution Act;

23 (8) Accept and administer loans, grants, and programs
24 from the federal or state government and from other sources, public
25 and private, for carrying out any of its functions, including the

1 administration of privately endowed scholarship programs. Such loans
2 and grants shall not be expended for any other purposes than those
3 for which the loans and grants were provided. The commission shall
4 determine eligibility for such loans, grants, and programs, and such
5 loans and grants shall not be expended unless approved by the
6 Governor;

7 ~~(9) Consistent with section 85-1620, approve, in a timely~~
8 ~~manner, new baccalaureate degree programs to be offered at private~~
9 ~~postsecondary career schools as defined in section 85-1603. The~~
10 ~~commission may charge a reasonable fee based on its administrative~~
11 ~~costs for authorizations pursuant to this subdivision and section~~
12 ~~85-1620. The commission shall report such action to the Commissioner~~
13 ~~of Education;~~

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

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

19 ~~(12)-(9) On or before December 1, 2000, and on or before~~
20 ~~December 1 every two years thereafter, of each even-numbered year,~~
21 submit to the Legislature and the Governor a report of its objectives
22 and activities and any new private colleges in Nebraska and the
23 implementation of any recommendations of the commission for the
24 preceding two calendar years;

25 ~~(13)-(10) Provide staff support for interstate compacts~~

1 on postsecondary education;

2 ~~(14)~~(11) Request inclusion of the commission in any
3 existing grant review process and information system; and

4 (12) In collaboration with the State Department of
5 Education, public and private postsecondary educational institutions,
6 private, denominational, or parochial secondary schools, educational
7 service units, and school districts, conduct a study regarding the
8 need for uniform policies and practices for dual-enrollment courses
9 and career academies in Nebraska, including transferability of dual-
10 enrollment courses and consistency of administration of career
11 academies. The study shall also include a review of any program that
12 provides Nebraska high school students with the opportunity to earn
13 college credit or advanced placement through participation in courses
14 and examinations administered by a not-for-profit organization and of
15 the need for uniform policies and practices related to the acceptance
16 and transferability of such courses and the college credit or
17 advanced placement earned as a result of a student's performance on
18 such examinations. The commission shall report the findings of such
19 study and its recommendations, including recommendations for possible
20 legislation, to the Legislature on or before December 15, 2011. For
21 purposes of this subdivision, dual-enrollment course has the same
22 definition as provided in section 79-1201.01.

23 ~~(15) Facilitate a study that explores the following~~
24 ~~issues related to the Nebraska community college system:~~

25 ~~(a) The need for changes to the statutory role and~~

1 ~~mission of Nebraska community colleges;~~

2 ~~(b) Changes in the weighting of courses that may be~~
3 ~~necessary for reimbursable educational units to properly reflect the~~
4 ~~role and mission of Nebraska community colleges and the cost of~~
5 ~~providing such courses;~~

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

9 ~~(d) Consequences for failing to satisfy current community~~
10 ~~college association membership requirements contained in section~~
11 ~~85-1502; and~~

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

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

19 ~~Sec. 30. Section 85-1604, Reissue Revised Statutes of~~
20 ~~Nebraska, is amended to read:~~

21 ~~85-1604 The following education and schools are exempted~~
22 ~~from the Private Postsecondary Career School Act:~~

23 ~~(1) Schools exclusively offering instruction at any or~~
24 ~~all levels from preschool through the twelfth grade;~~

25 ~~(2) Education sponsored by a bona fide trade, business,~~

1 professional, or fraternal organization which is offered solely for
2 that organization's membership or offered without charge;

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

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

8 (5) Educational programs offered by a charitable
9 institution, organization, or agency as long as such education or
10 training is not advertised or promoted as leading toward occupational
11 objectives;

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

14 (7) ~~Except as provided in subdivision (9) of this~~
15 ~~section, schools~~ Schools or organizations offering education or
16 instruction that is not part of a degree program leading to an
17 associate, a baccalaureate, a graduate, or a professional degree
18 which are licensed and regulated by agencies of this state other than
19 the department, ~~as of September 2, 1977,~~ except that such schools or
20 organizations shall not be exempt from the act with respect to
21 agents' permits and the Tuition Recovery Cash Fund;

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

1 ~~(9) Not for profit private colleges, universities, and~~
2 ~~entities (a) which awarded baccalaureate or higher degrees prior to~~
3 ~~May 27, 2003, which maintain and operate educational programs for~~
4 ~~which credit is given, and which are in compliance with sections~~
5 ~~85-1105 to 85-1111 or (b) which award baccalaureate or higher~~
6 ~~degrees, which maintain and operate educational programs for which~~
7 ~~credit is given, which are in compliance with sections 85-1105 to~~
8 ~~85-1111, and which are regionally accredited;~~

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

13 ~~(11) Institutions which have previously been regulated as~~
14 ~~private postsecondary career schools pursuant to the Private~~
15 ~~Postsecondary Career School Act, which have become regionally~~
16 ~~accredited, and which have been approved by the commission to offer~~
17 ~~baccalaureate degrees or higher pursuant to sections 85-1105 to~~
18 ~~85-1111. Institutions which have previously been regulated as private~~
19 ~~postsecondary career schools and which have been approved by the~~
20 ~~commission to offer baccalaureate degrees pursuant to sections~~
21 ~~85-1105 to 85-1111 but which have not become regionally accredited~~
22 ~~shall remain under the jurisdiction of the State Department of~~
23 ~~Education and subject to the Private Postsecondary Career School Act;~~
24 ~~and~~

25 (9) Any postsecondary institution offering or proposing

1 to offer courses or programs leading to a baccalaureate, graduate, or
2 professional degree, but whose offerings may include associate degree
3 programs, diplomas, and other certificates based on the award of
4 college credit, including any such institutions that were regulated
5 prior to the effective date of this act as private postsecondary
6 career schools pursuant to the Private Postsecondary Career School
7 Act; and

8 ~~(12)~~ (10) Entities exclusively offering short-term
9 training.

10 Sec. 31. Section 85-1620, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 85-1620 ~~(1)~~—A school which has been accredited pursuant
13 to section 85-1619 may apply to the department for authority to award
14 associate degrees. Upon determining that the quality of the courses
15 of instruction at the applicant school meets the standards
16 established in the department's rules and regulations, the
17 commissioner may grant the applicant the authority to award an
18 associate degree and shall issue a certificate setting forth the
19 programs for which the associate degree may be awarded. Such
20 authorization shall continue so long as the school remains
21 accredited.

22 ~~(2) A school which has been accredited pursuant to~~
23 ~~section 85-1619 may apply to the department for authority to award~~
24 ~~baccalaureate degrees. The department shall refer such degree~~
25 ~~applications to the commission for its review and approval. Within~~

1 ~~ninety days after receipt of such referral, the commission shall make~~
2 ~~a determination setting forth the specific program area and the name~~
3 ~~of the baccalaureate degree program. The commission shall report its~~
4 ~~determination to the commissioner who shall issue a certificate~~
5 ~~setting forth the programs for which the baccalaureate degree may be~~
6 ~~awarded. Such authorization shall continue so long as the school~~
7 ~~remains accredited.~~

8 Sec. 32. Section 85-1643, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 85-1643 (1) The Private Postsecondary Career Schools Cash
11 Fund is created. All fees collected pursuant to the Private
12 Postsecondary Career School Act shall be remitted to the State
13 Treasurer for credit to the fund. The fund shall be used only for the
14 purpose of administering the act. No fees shall be subject to refund.

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

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

19 (b) Renewal application for authorization to operate, one
20 hundred dollars plus twenty dollars per program of study offered,
21 except that the board may establish a variable fee schedule based
22 upon the prior school year's gross tuition revenue as provided by the
23 school pursuant to section 85-1656;

24 (c) Approval to operate a branch facility, one hundred
25 dollars;

- 1 (d) Late submission of application, fifty dollars;
- 2 (e) Initial agent's permit, fifty dollars;
- 3 (f) Agent's permit renewal, twenty dollars;
- 4 (g) Accreditation or reaccreditation, one hundred
5 dollars;
- 6 (h) Initial authorization to award an associate degree,
7 one hundred dollars;
- 8 ~~(i) Initial authorization to offer a baccalaureate~~
9 ~~degree, two hundred dollars;~~
- 10 ~~(j)-(i)~~ Significant program change, fifty dollars;
- 11 ~~(k)-(j)~~ Change of name or location, twenty-five dollars;
- 12 and
- 13 ~~(l)-(k)~~ Additional new program, one hundred dollars.
- 14 (3) Fees for out-of-state schools may include, but shall
15 not exceed the following:
- 16 (a) Certificate of approval to recruit, five hundred
17 dollars annually;
- 18 (b) Initial agent's permit, one hundred dollars; and
- 19 (c) Agent's permit renewal, forty dollars.
- 20 (4)(a) The board shall consult with the advisory council
21 established pursuant to section 85-1607 regarding any increase in
22 fees under the act. ~~The board may increase fees by not more than~~
23 ~~twenty percent for each year of fiscal years 2003-04, 2004-05, and~~
24 ~~2005-06.~~ Beginning with fiscal year 2006-07 and each year thereafter,
25 the board in consultation with the advisory council shall establish

1 fees sufficient to cover the total cost of administration, except
2 that such fees shall not exceed one hundred ten percent of the
3 previous year's total cost. Such fees shall be set out in the rules
4 and regulations adopted and promulgated by the board.

5 (b) Total cost of administration shall be determined by
6 an annual audit of:

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

9 (ii) Operating costs such as rent, utilities, and
10 supplies;

11 (iii) Capital costs such as office equipment, computer
12 hardware, and computer software;

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

15 (v) Other reasonable and necessary costs as determined by
16 the board.

17 Sec. 33. Section 85-2105, Revised Statutes Cumulative
18 Supplement, 2010, is amended to read:

19 85-2105 (1) An applicant for the Access College Early
20 Scholarship Program shall complete an application form developed and
21 provided by the commission and shall forward the form to his or her
22 guidance counselor. Such application shall include, but not be
23 limited to, the applicant's high school, social security number, date
24 of birth, grade point average, grade level, qualified postsecondary
25 educational institution, and information necessary to determine the

1 student's eligibility. The guidance counselor shall verify the
2 student's eligibility under the Access College Early Scholarship
3 Program Act and shall forward the ~~information~~application to the
4 commission for review within fifteen days following receipt of the
5 form from the student. Notification of tuition and mandatory fees to
6 be accrued by the student shall be provided to the commission by the
7 student, high school, or qualified postsecondary educational
8 institution as determined by the commission.

9 (2) The commission shall review the application and
10 verify the student's eligibility under the act. The commission shall
11 notify the student and the student's guidance counselor of the
12 verification of eligibility and the estimated award amount in writing
13 within thirty days following receipt of the form from the student's
14 guidance counselor. The scholarship award shall equal the lesser of
15 tuition and mandatory fees accrued by the student after any discounts
16 applicable to such student from the qualified postsecondary
17 educational institution or the tuition and mandatory fees that would
18 have been accrued by the student for the same number of credit hours
19 if the student were taking the course as a full-time, resident,
20 undergraduate student from the University of Nebraska-Lincoln. The
21 commission shall forward such amount directly to the qualified
22 postsecondary educational institution as payment of such student's
23 tuition and mandatory fees.

24 (3) The commission shall make such payments in the order
25 the applications are received, except that the commission may limit

1 the number of scholarships awarded in each term.

2 (4) The commission may limit the number of scholarships a
3 student may receive.

4 (5) For any student receiving a scholarship pursuant to
5 the act for tuition and mandatory fees, the qualified postsecondary
6 educational institution receiving the payment shall report either the
7 student's grade for the course or the student's failure to complete
8 the course to the commission within thirty days after the end of the
9 course or within one hundred eighty days after receipt of a payment
10 pursuant to the act if the course for which the scholarship was
11 awarded does not have a specified ending date. The commission shall
12 keep the identity of students receiving scholarships confidential,
13 except as necessary to comply with the requirements of the act.

14 Sec. 34. Original sections 77-2704.12, 79-757, 85-943,
15 85-961, 85-1604, 85-1620, and 85-1643, Reissue Revised Statutes of
16 Nebraska, sections 85-1412 and 85-2105, Revised Statutes Cumulative
17 Supplement, 2010, section 38-2622, Reissue Revised Statutes of
18 Nebraska, as amended by section 4, Legislative Bill 334, One Hundred
19 Second Legislature, First Session, 2011, and section 9-812, Revised
20 Statutes Cumulative Supplement, 2010, as amended by section 1,
21 Legislative Bill 333, One Hundred Second Legislature, First Session,
22 2011, are repealed.

23 Sec. 35. The following sections are outright repealed:
24 Sections 85-1101, 85-1102, 85-1103, 85-1103.01, 85-1103.02, 85-1104,
25 85-1105, 85-1106, 85-1107, 85-1108, 85-1109, 85-1110, 85-1110.01, and

1 85-1111, Reissue Revised Statutes of Nebraska.

2 Sec. 36. Since an emergency exists, this act takes effect

3 when passed and approved according to law.