

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1064

Introduced by Lippincott, 34; Aguilar, 35; Brewer, 43; Clements, 2; Dorn, 30; Erdman, 47; Halloran, 33; Hardin, 48; Holdcroft, 36; Kauth, 31; Lowe, 37; Murman, 38.

Read first time January 08, 2024

Committee:

1 A BILL FOR AN ACT relating to education; to amend sections 85-106,
2 85-606, 85-1511, and 85-1530, Reissue Revised Statutes of Nebraska,
3 and section 85-304, Revised Statutes Cumulative Supplement, 2022; to
4 prohibit the practice of academic tenure at postsecondary
5 educational institutions governed by the Board of Regents of the
6 University of Nebraska, the Board of Trustees of the Nebraska State
7 Colleges, or a community college board of governors for any
8 community college area established by section 85-1504 as prescribed;
9 to provide powers and duties to the Board of Regents of the
10 University of Nebraska, the Board of Trustees of the Nebraska State
11 Colleges, and any community college board of governors; to harmonize
12 provisions; and to repeal the original sections.
13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 85-106, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 85-106 (1) The Board of Regents shall have the power:

4 (a) ~~(1)~~ To enact laws for the government of the university;

5 (b) ~~(2)~~ To elect a president, vice presidents, chancellors, vice
6 chancellors, deans, associate deans, assistant deans, directors,
7 associate directors, assistant directors, professors, associate
8 professors, assistant professors, instructors, other members of the
9 faculty staff, and employees generally of the university ~~and to provide~~
10 ~~for academic tenure for professors, associate professors, and assistant~~
11 ~~professors;~~

12 (c) ~~(3)~~ To prescribe the duties of such persons not inconsistent
13 with section 85-1,105;

14 (d) ~~(4)~~ To fix their compensation;

15 (e) ~~(5)~~ To provide, in its discretion, retirement benefits for
16 present and future employees of the university, subject to the following:

17 (i) ~~(a)~~ The cost of such retirement benefits shall be funded in
18 accordance with sound actuarial principles with the necessary
19 contributions for both past service and future service being treated in
20 the university budget in the same way as any other operating expense;

21 (ii) ~~(b)~~ The university contribution under any such retirement plan
22 shall be (A) ~~(i)~~ the rate established by the Board of Regents and not
23 more than eight percent of each university employee's full-time salary or
24 wage earnings for any calendar year before any agreement for reduction of
25 salary or wage earnings and (B) ~~(ii)~~ pursuant to an agreement for
26 reduction of salary or wage earnings, the amount of the reduction of
27 salary or wage earnings;

28 (iii) ~~(c)~~ Each employee's contribution shall be the rate established
29 by the Board of Regents and shall not be required to exceed the
30 university's contribution under subdivision (1)(d)(ii)(A) ~~(5)(b)(i)~~ of
31 this section, except that in lieu of making such contribution, each such

1 employee may enter into an agreement for reduction of salary or wages for
2 the purchase by the Board of Regents of annuity contracts for such
3 employee, under the provisions of the Internal Revenue Code, but the
4 amount of the reduction of salary or wages allowable under this
5 subdivision may not include credit for service prior to March 29, 1972;

6 (iv) ~~(d)~~ The retirement benefits of any employee for service prior
7 to September 1, 1961, shall be those provided under the retirement plan
8 then in force, which benefits shall not be abridged, except that such
9 retirement benefits shall become fully vested in the event of an
10 employee's termination of employment if such employee has at least ten
11 years of service at the date of termination;

12 (v) ~~(e)~~ Continued contributions to the system until the date of
13 retirement as provided in section 85-606; and

14 (vi) ~~(f)~~ The investment of retirement funds shall be pursuant to the
15 Nebraska Capital Expansion Act and the Nebraska State Funds Investment
16 Act, but no change in the type of investment of such funds shall be made
17 without the prior approval of the Board of Regents;

18 (f) ~~(6)~~ To equalize and provide for uniform benefits for all present
19 and future employees, including group life insurance, group hospital-
20 medical insurance, group long-term disability income insurance, and
21 retirement benefits;

22 (g) ~~(7)~~ To provide, through the University Extension Division, for
23 the holding of classes at various localities throughout the state
24 avoiding unnecessary duplication of courses offered by other educational
25 institutions in such localities and consistent with the orders of the
26 Coordinating Commission for Postsecondary Education issued pursuant to
27 sections 85-1413 and 85-1414;

28 (h) ~~(8)~~ To remove the president, vice presidents, chancellors, vice
29 chancellors, deans, associate deans, assistant deans, directors,
30 associate directors, assistant directors, professors, associate
31 professors, assistant professors, instructors, other members of the

1 faculty staff, and employees generally, when the interests of the
2 university require it; and

3 (i) (9) To pay expenses for recruitment of academic, administrative,
4 professional, and managerial personnel.

5 (2) A postsecondary educational institution governed by the Board of
6 Regents of the University of Nebraska shall not establish or continue to
7 authorize an academic system of tenure for any employee of such
8 institution. The board shall adopt a written policy relating to:

9 (a) Employee agreements;

10 (b) Acceptable grounds for termination of faculty, which shall
11 include, but not be limited to, just cause, program discontinuance, and
12 financial exigency;

13 (c) Annual performance evaluations of all faculty;

14 (d) Minimum standards of good practice for faculty members;

15 (e) Standards for review and discipline of faculty members; and

16 (f) Procedures for dismissal for cause, program discontinuance, and
17 financial exigency.

18 (3) The Board of Regents shall institute a continuing program of
19 preventive maintenance and a program of deferred maintenance consistent
20 with the provisions of the Deferred Building Renewal Act and shall
21 consult with the Nebraska Arts Council and acquire works of art for the
22 original construction of any public building under its supervision
23 consistent with sections 82-317 to 82-329 and 85-106.01 to 85-106.03.

24 Sec. 2. Section 85-304, Revised Statutes Cumulative Supplement,
25 2022, is amended to read:

26 85-304 (1) The Board of Trustees of the Nebraska State Colleges
27 shall have the power:

28 (a) To appoint a president and such other persons as may be required
29 for each state college;

30 (b) To fix their compensation and prescribe their duties;

31 (c) To remove all persons appointed, but the affirmative votes of

1 four members of the board shall be necessary to remove a president or an
2 assistant during the time for which such persons were appointed;

3 (d) Through an extension division, to provide for holding of classes
4 at various localities throughout the state, avoiding unnecessary
5 duplication of courses offered by other educational institutions in such
6 localities;

7 (e) To acquire real and personal property and dispose of the same
8 whenever any of the state colleges will be benefited thereby, but no
9 grounds upon which any buildings of any of the state colleges are located
10 shall be disposed of without the consent of the Legislature;

11 (f) To pay expenses for recruitment of academic, administrative,
12 professional, and managerial personnel; and

13 (g) To provide benefits for all present and future employees,
14 including group life insurance, group hospital-medical insurance, and
15 group long-term disability income insurance.

16 (2) The board shall have the duty:

17 (a) To institute a continuing program of preventive maintenance and
18 a program of deferred maintenance consistent with the provisions of the
19 Deferred Building Renewal Act; and

20 (b) To consult with the Nebraska Arts Council and acquire works of
21 art for the original construction of any public building under its
22 supervision consistent with sections 82-317 to 82-329 and 85-304 to
23 85-304.03.

24 (3) A postsecondary educational institution governed by the Board of
25 Trustees of the Nebraska State Colleges shall not establish or continue
26 to authorize an academic system of tenure for any employee of such
27 institution. The board shall adopt a written policy relating to:

28 (a) Employee agreements;

29 (b) Acceptable grounds for termination of faculty, which shall
30 include, but not be limited to, just cause, program discontinuance, and
31 financial exigency;

- 1 (c) Annual performance evaluations of all faculty;
- 2 (d) Minimum standards of good practice for faculty members;
- 3 (e) Standards for review and discipline of faculty members; and
- 4 (f) Procedures for dismissal for cause, program discontinuance, and
- 5 financial exigency.

6 Sec. 3. Section 85-606, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 85-606 (1) Employees of the state colleges, community colleges, and
9 the University of Nebraska may retire upon reaching the age of sixty-
10 five. Any law enforcement personnel reaching the age of seventy shall
11 retire, except that, with the annual approval of the governing board of
12 the institution and the employee, such employee may continue his or her
13 employment beyond the attainment of age seventy.

14 (2) Any employee continuing to work after age sixty-five shall
15 continue to make contributions to the appropriate retirement system until
16 the date of retirement.

17 (3) No faculty member of ~~the University of Nebraska, the Nebraska~~
18 ~~State Colleges, or~~ the community colleges shall have his or her tenure
19 status revoked without due process.

20 Sec. 4. Section 85-1511, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 85-1511 In addition to any other powers and duties imposed upon the
23 community college system or its areas, campuses, or boards by the
24 Community College Aid Act, sections 85-917 to 85-966 and 85-1501 to
25 85-1540, and any other provision of law, each board shall:

26 (1) Have general supervision, control, and operation of each
27 community college within its jurisdiction;

28 (2) Subject to coordination by the Coordinating Commission for
29 Postsecondary Education as prescribed in the Coordinating Commission for
30 Postsecondary Education Act, develop and offer programs of applied
31 technology education, academic transfer programs, academic support

1 courses, and such other programs and courses as the needs of the
2 community college area served may require. The board shall avoid
3 unnecessary duplication of existing programs and courses in meeting the
4 needs of the students and the community college area;

5 (3) Employ, for a period to be fixed by the board, executive
6 officers, members of the faculty, and such other administrative officers
7 and employees as may be necessary or appropriate and fix their salaries
8 and duties. The board shall not establish or continue to authorize an
9 academic system of tenure for any employee of a community college. The
10 board shall adopt a written policy relating to: ÷

11 (a) Employee agreements;

12 (b) Acceptable grounds for termination of faculty, which shall
13 include, but not be limited to, just cause, program discontinuance, and
14 financial exigency;

15 (c) Annual performance evaluations of all faculty;

16 (d) Minimum standards of good practice for faculty members;

17 (e) Standards for review and discipline of faculty members; and

18 (f) Procedures for dismissal for cause, program discontinuance, and
19 financial exigency;

20 (4) Subject to coordination by the Coordinating Commission for
21 Postsecondary Education as prescribed in the Coordinating Commission for
22 Postsecondary Education Act, construct, lease, purchase, purchase on
23 contract, operate, equip, and maintain facilities;

24 (5) Contract for services connected with the operation of the
25 community college area as needs and interest demand;

26 (6)(a) Cause a comprehensive audit of the books, accounts, records,
27 and affairs to be made annually covering the most recently completed
28 fiscal year. The audit of each area shall include all sources of revenue
29 used to finance operating expenditures and capital improvements and the
30 county-certified property valuation for the community college for the
31 fiscal year for which such audit is being performed. Such audit of the

1 books, accounts, records, and affairs shall be completed and filed with
2 the Auditor of Public Accounts, the commission, and the Department of
3 Administrative Services on or before November 15 of each year; and

4 (b) Cause a comprehensive audit of the full-time equivalent student
5 enrollment totals and reimbursable educational unit totals to be made
6 annually covering the most recently completed fiscal year. The audit of
7 each area shall include a report of full-time equivalent student
8 enrollment totals and reimbursable educational unit totals verified by
9 such audits for the three most recently completed fiscal years which
10 shall be used for calculation of aid to the community college areas for
11 fiscal year 2013-14 and each fiscal year thereafter pursuant to
12 subdivisions (3)(b) and (c) of section 85-2234. The audit of the full-
13 time equivalent student enrollment totals and reimbursable educational
14 unit totals shall be completed and filed with the Auditor of Public
15 Accounts, the commission, and the Department of Administrative Services
16 on or before August 15 of each year;

17 (7) Establish fees and charges for the facilities authorized by
18 sections 85-1501 to 85-1540. Such fees and charges shall be identified as
19 facility fees at the time they are assessed. The revenue from such fees
20 and charges, other than revenue pledged to retire bonds issued pursuant
21 to sections 85-1515 and 85-1520 to 85-1527 and deposited in a separate
22 bond sinking fund, shall be deposited in the capital improvement and bond
23 sinking fund provided for in section 85-1515. Each board may enter into
24 agreements with owners of facilities to be used for housing regarding the
25 management, operation, and government of such facilities and may employ
26 necessary employees to govern, manage, and operate such facilities;

27 (8) Receive such gifts, grants, conveyances, and bequests of real
28 and personal property from public or private sources as may be made from
29 time to time, in trust or otherwise, whenever the terms and conditions
30 thereof will aid in carrying out the community college programs as
31 specified by law. Each board may sell, lease, exchange, invest, or expend

1 such gifts, grants, conveyances, and bequests or the proceeds, rents,
2 profits, and income therefrom according to the terms and conditions
3 thereof and adopt and promulgate rules and regulations governing the
4 receipt and expenditure of such proceeds, rents, profits, and income,
5 except that acceptance of such gifts, grants, or conveyances shall not be
6 conditioned on matching state or local funds;

7 (9) Prescribe the courses of study for any community college under
8 its control and publish such catalogs and bulletins as may be necessary;

9 (10) Grant to every student upon graduation or completion of a
10 course of study a suitable diploma, associate degree, or certificate;

11 (11) Adopt and promulgate such rules and regulations and perform all
12 other acts as the board may deem necessary or appropriate to the
13 administration of the community college area. Such rules and regulations
14 shall include, but not be limited to, rules and regulations relating to
15 facilities, housing, scholarships, discipline, and pedestrian and
16 vehicular traffic on property owned, operated, or maintained by the
17 community college area;

18 (12) Employ, for a period to be fixed by the board, an executive
19 officer for the community college area and, by written order filed in its
20 office, delegate to such executive officer any of the powers and duties
21 vested in or imposed upon it by sections 85-1501 to 85-1540. Such
22 delegated powers and duties may be exercised in the name of the board;

23 (13) Acquire real property by eminent domain pursuant to sections
24 76-701 to 76-724;

25 (14) Acquire real and personal property and sell, convey, or lease
26 such property whenever the community college area will be benefited
27 thereby. The sale, conveyance, or lease of any real estate owned by a
28 community college area shall be effective only when authorized by an
29 affirmative vote of at least two-thirds of all the members of the board;

30 (15) Enter into agreements for services, facilities, or equipment
31 and for the presentation of courses for students when such agreements are

1 deemed to be in the best interests of the education of the students
2 involved;

3 (16) Transfer tribally controlled community college state aid
4 amounts to a tribally controlled community college located within its
5 community college area;

6 (17) Invest, after proper consideration of the requirements for the
7 availability of money, funds of the community college in securities the
8 nature of which individuals of prudence, discretion, and intelligence
9 acquire or retain in dealing with the property of another;

10 (18) Establish tuition rates for courses of instruction offered by
11 each community college within its community college area. Separate
12 tuition rates shall be established for students who are nonresidents of
13 the State of Nebraska. Each board may also establish fees to support the
14 operating expenditures of the community college area if such fees are
15 accounted for separately from the fees and charges established for
16 facilities pursuant to subdivision (7) of this section and are identified
17 as operating fees at the time they are assessed;

18 (19) Establish a fiscal year for the community college area which
19 conforms to the fiscal year of the state;

20 (20) Enter into a memorandum of understanding with the State Board
21 of Education to adopt a policy to share student data. At a minimum, the
22 policy shall ensure that the exchange of information is conducted in
23 conformance with the requirements of the federal Family Educational
24 Rights and Privacy Act of 1974, as amended, 20 U.S.C. 1232g, and all
25 federal regulations and applicable guidelines adopted in accordance with
26 such act, as such act, regulations, and guidelines existed on January 1,
27 2010; and

28 (21) Exercise any other powers, duties, and responsibilities
29 necessary to carry out sections 85-1501 to 85-1540.

30 Sec. 5. Section 85-1530, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 85-1530 Each board shall adopt a reduction-in-force policy covering
2 employees subject to such statutory provisions to carry out the intent of
3 sections 85-1530 to 85-1533. No such policy shall allow the reduction of
4 a permanent ~~or tenured~~ employee while a probationary employee is retained
5 to render a service which such permanent employee is qualified by reason
6 of certification and endorsement to perform or, if certification is not
7 applicable, by reason of college credits in the teaching area. If
8 employee evaluation is to be included as a criterion to be used for
9 reduction in force, specific criteria, such as frequency of evaluation,
10 evaluation forms, and number and length of classroom observations shall
11 be included as part of the reduction-in-force policy.

12 Sec. 6. Original sections 85-106, 85-606, 85-1511, and 85-1530,
13 Reissue Revised Statutes of Nebraska, and section 85-304, Revised
14 Statutes Cumulative Supplement, 2022, are repealed.