

## LEGISLATIVE BILL 1349

Approved by the Governor March 30, 2000

Introduced by Bromm, 23; Wehrbein, 2

AN ACT relating to the Information Technology Infrastructure Act; to amend sections 81-1190 to 81-1192, 81-1194, 81-1195, 81-1199, and 81-11,102, Reissue Revised Statutes of Nebraska, section 81-179, Revised Statutes Supplement, 1998, and section 77-2602, Revised Statutes Supplement, 1999; to change provisions of the act; to define and redefine terms; to change funding; to change and eliminate an obsolete fund and powers and duties; to eliminate a termination date; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 14-3,130, 81-1193, 81-1196, 81-1197, 81-1198, 81-11,100, 81-11,101, and 81-11,103, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 77-2602, Revised Statutes Supplement, 1999, is amended to read:

77-2602. (1) Every person engaged in distributing or selling cigarettes at wholesale in this state shall pay to the Tax Commissioner of this state a special privilege tax. This shall be in addition to all other taxes. It shall be paid prior to or at the time of the sale, gift, or delivery to the retail dealer in the several amounts as follows: On each package of cigarettes containing not more than twenty cigarettes, thirty-four cents per package; and on packages containing more than twenty cigarettes, the same tax as provided on packages containing not more than twenty cigarettes for the first twenty cigarettes in each package and a tax of one-twentieth of the tax on the first twenty cigarettes on each cigarette in excess of twenty cigarettes in each package. Commencing July 1, 1994, and continuing until July 1, 2009, the State Treasurer shall place the equivalent of twenty-one cents of such tax less three million dollars each fiscal year of proceeds of such tax in the General Fund. Commencing July 1, 2009, the State Treasurer shall place the equivalent of twenty-one cents of such tax in the General Fund. For purposes of this section, the equivalent of a specified number of cents of the tax shall mean that portion of the proceeds of the tax equal to the specified number divided by thirty-four. The State Treasurer shall distribute the remaining proceeds of such tax in the following order:

(a) First, beginning July 1, 1980, the State Treasurer shall place the equivalent of one cent of such tax in the Nebraska Outdoor Recreation Development Cash Fund. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the twenty-one-cent distribution to the General Fund;

(b) Second, beginning July 1, 1993, the State Treasurer shall place the equivalent of three cents of such tax in the Department of Health and Human Services Finance and Support Cash Fund to carry out sections 81-637 to 81-640. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the twenty-one-cent distribution to the General Fund;

~~(c) Third, beginning July 1, 1995, the State Treasurer shall place the equivalent of two cents of such tax in the City of Omaha Public Events Facilities Fund for each fiscal year through fiscal year 2000-01. The Legislature shall appropriate all sums inuring to the fund to the city of Omaha upon evidence that any amounts so appropriated are matched with funds derived from sources other than state funds in amounts equivalent to one dollar for every two dollars appropriated. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the twenty-one-cent distribution to the General Fund;~~

~~(d) Fourth (c) Third, beginning July 1, 1997, and continuing until July 1, 2001, the State Treasurer shall place the equivalent of seven cents of such tax in the Building Renewal Allocation Fund for each fiscal year, for the purposes stated in the Deferred Building Renewal Act. Beginning July 1, 2001,~~

~~and continuing until~~ all the purposes of the Deferred Building Renewal Act have been fulfilled, the State Treasurer shall place the equivalent of ~~nine~~ seven cents of such tax in the Building Renewal Allocation Fund. The Legislature shall appropriate each fiscal year all sums inuring to the fund, plus interest earnings for the Task Force for Building Renewal to be used to carry out its duties and to fulfill the purposes of the Deferred Building Renewal Act. Unexpended balances existing at the end of each fiscal year shall be, and are hereby, reappropriated. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the twenty-one-cent distribution to the General Fund;

~~(e) Fifth~~ (d) Fourth, the State Treasurer shall place the difference between the equivalent of thirteen cents of such tax and the sum of the amounts distributed pursuant to subdivisions (a) through ~~(d) (c)~~ and (f) of this subsection in a special fund to be known as the Nebraska Capital Construction Fund; ~~and~~

~~(f) Sixth~~ (e) Fifth, beginning July 1, 1994, and continuing until July 1, 2009, the State Treasurer shall place in the Municipal Infrastructure Redevelopment Fund the sum of three million dollars each fiscal year to carry out the Municipal Infrastructure Redevelopment Fund Act. The Legislature shall appropriate the sum of three million dollars each year for fiscal year 1994-95 through fiscal year 2008-09; and

(f) Sixth, beginning July 1, 2001, the State Treasurer shall place the equivalent of two cents of such tax in the Information Technology Infrastructure Fund.

(2) The Legislature hereby finds and determines that the projects funded from the Municipal Infrastructure Redevelopment Fund, ~~the City of Omaha Public Events Facilities Fund,~~ and the Building Renewal Allocation Fund are of critical importance to the State of Nebraska. It is the intent of the Legislature that the allocations and appropriations made by the Legislature to such funds or, in the case of allocations for the Municipal Infrastructure Redevelopment Fund, to the particular municipality's account not be reduced until all contracts and securities relating to the construction and financing of the projects or portions of the projects funded from such funds or accounts of such funds are completed or paid or, in the case of the Municipal Infrastructure Redevelopment Fund, the earlier of such date or July 1, 2009, and that until such time any reductions in the cigarette tax rate made by the Legislature shall be simultaneously accompanied by equivalent reductions in the amount dedicated to the General Fund from cigarette tax revenue. Any provision made by the Legislature for distribution of the proceeds of the cigarette tax for projects or programs other than those to (a) the General Fund, (b) the Nebraska Outdoor Recreation Development Cash Fund, (c) the Department of Health and Human Services Finance and Support Cash Fund, (d) the Municipal Infrastructure Redevelopment Fund, (e) ~~the City of Omaha Public Events Facilities Fund,~~ and (f) the Building Renewal Allocation Fund, and (f) the Information Technology Infrastructure Fund shall not be made a higher priority than or an equal priority to any of the programs or projects specified in subdivisions (a) through (f) of this subsection.

Sec. 2. Section 81-179, Revised Statutes Supplement, 1998, is amended to read:

81-179. There is hereby created under the control of the Governor, for allocation to building renewal projects of the various agencies, a fund to be known as the Building Renewal Allocation Fund. The fund shall contain the revenue from the special privilege tax as provided in section 77-2602 and such other money as is appropriated by the Legislature. Such appropriation is declared to consist of building renewal funds which shall be kept separate and distinct from the program continuation funds and project construction funds. Separate subfunds, subprograms, projects, or accounts shall be established to separately account for any expenditures on state buildings or facilities to comply with the federal Americans with Disabilities Act of 1990. A minimal amount of the funds contained in the subfunds, subprograms, projects, or accounts may be used for planning and evaluation of buildings and facilities. The budget division of the Department of Administrative Services may administratively transfer funds to appropriate accounting entities to correctly account for the operating expenditures. A separate fund, cash fund, project, or other account may be administratively established for such purpose. ~~At the direction of and subject to express appropriation by the Legislature, amounts accruing to the Building Renewal Allocation Fund for fiscal years 1997-98 through 2000-01 may be expended to support achievement of goals identified in the Information Technology Infrastructure Act. Annual~~

appropriations from the Building Renewal Allocation Fund for such purpose shall not exceed annual anticipated revenue from the equivalent of two cents of the special privilege tax as provided in section 77-2602. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. On or after July 1, 2001, and before July 15, 2001, the State Treasurer shall transfer the unexpended balance in the Century Date Change subfund of the Building Renewal Allocation Fund to the Information Technology Infrastructure Fund.

Sec. 3. Section 81-1190, Reissue Revised Statutes of Nebraska, is amended to read:

81-1190. Sections 81-1190 to ~~81-11,103~~ 81-11,102 and section 8 of this act shall be known and may be cited as the Information Technology Infrastructure Act.

Sec. 4. Section 81-1191, Reissue Revised Statutes of Nebraska, is amended to read:

81-1191. For purposes of the Information Technology Infrastructure Act:

(1) ~~Century date change means the conversion of computer software, hardware, and data to function correctly prior to January 1, 2000;~~

(2) ~~Data processing hardware means equipment designed for the automated storage, manipulation, and retrieval of data by electronic or mechanical means and includes, but is not limited to, central processing units, front-end processing units including miniprocessors and microprocessors, and related peripheral equipment such as data storage devices, document scanners, data entry, terminal controllers, and data terminal equipment, computer-related word processing systems, and equipment and systems for computer networks;~~

(3) ~~Data processing services means all services that include feasibility studies, systems design, software development, or time-sharing services;~~

(4) ~~Data processing software means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer networking programs;~~

(5) ~~Commission means the Nebraska Information Technology Commission;~~

(6) ~~Department means the Department of Administrative Services;~~

(7) ~~Director means the Director of Administrative Services;~~

(8) ~~Enterprise means the entirety of all departments, offices, boards, bureaus, commissions, or institutions in the state for which money is to be appropriated for communications or data processing services, equipment, or facilities, including all executive, legislative, and judicial departments, the Nebraska state colleges, the University of Nebraska, and all other state institutions and entities;~~

(9) ~~Enterprise project means an endeavor undertaken over a fixed period of time using information technology, which would have a significant effect on a core business function and affects multiple government programs, agencies, or institutions. Enterprise project includes all aspects of planning, design, implementation, project management, and training relating to the endeavor;~~

(10) ~~Fund means the Information Technology Infrastructure Fund;~~

(11) ~~Information technology means computing and telecommunications systems and their supporting infrastructure and interconnectivity used to acquire, transport, process, analyze, store, and disseminate information electronically; data processing hardware, software, and services, supplies, personnel, facility resources, maintenance, and training;~~

(12) ~~Information technology infrastructure means the basic facilities, services, and installations needed for the functioning of information technology; and~~

(13) ~~Program means the Information Technology Infrastructure Program.~~

(14) ~~Statewide technology plan means the plan developed by the Nebraska Information Technology Commission pursuant to section 86-1506.~~

Sec. 5. Section 81-1192, Reissue Revised Statutes of Nebraska, is amended to read:

81-1192. The Legislature finds that:

(1) The effective, efficient, and cost-effective operation of state government requires that information be considered and managed as a strategic resource;

(2) Information technologies present numerous opportunities to more

effectively manage the information necessary for state government operations;

(3) Information technologies are changing and advancing at a very rapid rate, increasing the computing power available to individual users;

(4) ~~Enterprise-wide~~ The commission should have the responsibility to establish goals, guidelines, and priorities for information technology infrastructure; and should be established; and

(5) Periodic investments in the information technology infrastructure are required to develop and maintain the foundation for the effective use of information technologies throughout state government.

Sec. 6. Section 81-1194, Reissue Revised Statutes of Nebraska, is amended to read:

81-1194. It is the intent of the Legislature that:

(1) A program be created with the goals of:

(a) Improving the efficiency of and reducing the cost of state government and its various agencies;

(b) Improving the technical capabilities and productivity of state employees and students, faculty, and administrators in state educational institutions;

(c) Addressing enterprise-wide information technology issues; ~~and including the century date change; and~~

(d) Clearly identifying and providing accountability for the costs and benefits of information technology in state government; and

(2) A fund be created to provide resources for periodic investments in the information technology infrastructure.

Sec. 7. Section 81-1195, Reissue Revised Statutes of Nebraska, is amended to read:

81-1195. The Information Technology Infrastructure Fund is hereby created. The fund shall contain revenue from the special privilege tax as provided in section 77-2602, gifts, grants, and such other money as is appropriated or transferred by the Legislature. The fund shall be used to attain the goals listed in section 81-1194 and the goals and priorities identified in the statewide technology plan. The fund shall be administered by the department. Expenditures shall be made from the fund to finance the operations of the Information Technology Infrastructure Act in accordance with the appropriations made by the Legislature. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. ~~The Director of Administrative Services shall, in consultation with the Director of Communications and the information management services administrator, assess the financing needs of projects implemented under the Information Technology Infrastructure Act. The Director of Administrative Services shall provide for a system of equitable billings and charges for project costs to any state agency when the billings or charges are allocable to a particular project carried out under the act. The billings or charges shall reflect, as nearly as may be practical, the actual agency share of project costs. No state agency shall be billed or charged for project costs until a written agreement has been entered into by the department and the appropriate state agency. Agreements shall at a minimum include: (1) A description of the scope of the project; (2) the estimated project cost; and (3) the fund source allocation formula that will be applied to project billings or charges. All payments received by the department for project expenses shall be credited to the fund. Any fund balance transfer into the Information Technology Infrastructure Fund shall be approved by an act of the Legislature. The fund may be used for short-term lease-purchases; however, no lease-purchase contracts using the fund as a source of funding may extend beyond June 30, 2001. The director may make assessments for programs implemented under the act until June 30, 2001.~~

Sec. 8. The Legislature may allocate money from the fund for enterprise projects. The Legislature may recognize multiple-year commitments for large projects, subject to available appropriations, including remaining obligations for the century date change project managed by the department. No contract or expenditure for the implementation of an enterprise project may be initiated unless the commission has approved a project plan. The project plan shall include, but not be limited to, the objectives, scope, and justification of the project; detailed specifications and analyses that guide the project from beginning to conclusion; technical requirements; and project management. The commission may request clarification, require changes, or provide conditional approval of a project plan. In its review, the commission shall determine whether the objectives, scope, timeframe, and budget of the project are consistent with the proposal authorized by the Legislature in its allocation from the fund. The commission may also evaluate whether the project plan is consistent with the statewide technology plan and the

commission's technical standards and guidelines. Pursuant to section 86-1510, the Chief Information Officer shall report the status of enterprise projects to the commission, Governor, and Legislature. In addition, the Chief Information Officer shall provide the Legislature a semiannual progress report for enterprise projects funded through the fund.

Sec. 9. Section 81-1199, Reissue Revised Statutes of Nebraska, is amended to read:

81-1199. ~~The director may hire and reassign staff support and contract to obtain such operational support as may be required for century date change projects. The director shall. The commission shall:~~

(1) Develop procedures and issue guidelines regarding the review, approval, and monitoring of enterprise projects that benefit from the fund; and applications for and uses of the Information Technology Infrastructure Fund;

(2) Develop a system of charges for project costs and monitor the use of funds retained in state agency budgets that are dedicated for information technology infrastructure projects;

(3) Evaluate and approve any such contracts between the department and other state agencies, boards, or commissions or outside vendors which will achieve the goals and purposes of the Information Technology Infrastructure Act;

(4) (2) Monitor the status of projects implemented under the Information Technology Infrastructure Act, including a complete accounting of all project costs by fund source. + and

(5) Appoint a qualified project administrator in the department to provide full-time project management.

Sec. 10. Section 81-11,102, Reissue Revised Statutes of Nebraska, is amended to read:

81-11,102. ~~The department commission shall report quarterly annually~~ to the Governor and the Appropriations Committee of the Legislature concerning its activities pursuant to the Information Technology Infrastructure Act.

Sec. 11. Sections 1, 2, 12, and 15 of this act become operative on July 1, 2001. The other sections of this act become operative on their effective date.

Sec. 12. Original section 81-179, Revised Statutes Supplement, 1998, and section 77-2602, Revised Statutes Supplement, 1999, are repealed.

Sec. 13. Original sections 81-1190 to 81-1192, 81-1194, 81-1195, 81-1199, and 81-11,102, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 14. The following sections are outright repealed: Sections 81-1193, 81-1196, 81-1197, 81-1198, 81-11,100, 81-11,101, and 81-11,103, Reissue Revised Statutes of Nebraska.

Sec. 15. The following section is outright repealed: Section 14-3,130, Reissue Revised Statutes of Nebraska.