

LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 974

Final Reading

(Second)

Introduced by Mello, 5; Campbell, 25; Harms, 48; Krist, 10.

Read first time January 17, 2014

Committee: Appropriations

A BILL

1 FOR AN ACT relating to state government; to amend sections 77-2215,
2 79-1145, 81-153, 81-181, 81-1111.01, and 81-3110, Reissue
3 Revised Statutes of Nebraska, sections 73-507, 81-132,
4 81-1018, 81-1113, and 81-1125.01, Revised Statutes
5 Cumulative Supplement, 2012, and section 81-3133, Revised
6 Statutes Supplement, 2013; to provide an exception to
7 certain requirements for contracts for services; to
8 change and eliminate provisions for duplicate warrants;
9 to change limitations on the appropriation of General
10 Funds for special education; to eliminate obsolete
11 provisions regarding budget forms; to change a duty for
12 the materiel division of the Department of Administrative
13 Services; to change report requirements under the
14 Deferred Building Renewal Act; to change provisions
15 relating to state-owned vehicles; to provide and change

1 reporting requirements for the Department of Health and
2 Human Services; to change provisions relating to agency
3 preaudits; to change powers and duties of the Department
4 of Administrative Services; to harmonize provisions; to
5 repeal the original sections; and to declare an
6 emergency.

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

1 Section 1. Section 73-507, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 73-507 (1) Subject to review by the Director of
4 Administrative Services, the division shall provide procedures to
5 grant limited exceptions from sections 73-504, 73-508, and 73-509
6 for:

7 ~~(a) Sole source and emergency contracts; and~~
8 (a) Sole source contracts, emergency contracts, and
9 contracts for services when the price has been established by the
10 federal General Services Administration or competitively bid by
11 another state or group of states, a group of states and any political
12 subdivision of any other state, or a cooperative purchasing
13 organization on behalf of a group of states; and

14 (b) Other circumstances or specific contracts when any of
15 the requirements of sections 73-504, 73-508, and 73-509 are not
16 appropriate for or are not compatible with the circumstances or
17 contract. The division shall provide a written rationale which shall
18 be kept on file when granting an exception under this subdivision.

19 (2) The following types of contracts for services are not
20 subject to sections 73-504, 73-508, 73-509, and 73-510:

21 (a) Contracts for services subject to the Nebraska
22 Consultants' Competitive Negotiation Act;

23 (b) Contracts for services subject to federal law,
24 regulation, or policy or state statute, under which a state agency is
25 required to use a different selection process or to contract with an

1 identified contractor or type of contractor;

2 (c) Contracts for professional legal services and
3 services of expert witnesses, hearing officers, or administrative law
4 judges retained by state agencies for administrative or court
5 proceedings;

6 (d) Contracts involving state or federal financial
7 assistance passed through by a state agency to a political
8 subdivision;

9 (e) Contracts with a value of fifteen million dollars or
10 less with direct providers of medical, behavioral, or developmental
11 health services, child care, or child welfare services to an
12 individual;

13 (f) Agreements for services to be performed for a state
14 agency by another state or local government agency or contracts made
15 by a state agency with a local government agency for the direct
16 provision of services to the public;

17 (g) Agreements for services between a state agency and
18 the University of Nebraska, the Nebraska state colleges, the courts,
19 the Legislature, or other officers or state agencies established by
20 the Constitution of Nebraska;

21 (h) Department of Insurance contracts for financial or
22 actuarial examination, for rehabilitation, conservation,
23 reorganization, or liquidation of licensees, and for professional
24 services related to residual pools or excess funds under the agency's
25 control;

1 (i) Department of Roads contracts for all road and bridge
2 projects;

3 (j) Nebraska Investment Council contracts; and

4 (k) Contracts under section 57-1503.

5 Sec. 2. Section 77-2215, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 77-2215 (1) Whenever it shall be made to appear to the
8 satisfaction of any officer, except the Director of Administrative
9 Services, authorized by law to issue warrants, that any warrant
10 issued by him or her has been lost or destroyed, such officer shall
11 have authority to issue a ~~duplicate~~ replacement thereof. ~~, numbered~~
12 ~~the same as the original, with the word duplicate written or printed~~
13 ~~in red ink across the face thereof. No duplicate~~ replacement warrant
14 shall be issued until the party applying for the same shall make an
15 affidavit that such party was the owner of the original warrant and
16 shall also file with such officer an indemnity bond with good and
17 sufficient security, conditioned to refund any money received by the
18 party or his or her assigns on such ~~duplicate~~ replacement in case of
19 presentation and payment of the original by the treasurer upon whom
20 the same is drawn, whether upon a genuine endorsement thereon or
21 otherwise. The payee of any lost or destroyed warrant shall not be
22 required to file an indemnity bond when the affidavit shows that such
23 payee has not received such lost or destroyed warrant and cannot
24 reasonably expect to receive it.

25 (2) Whenever it shall have come to the attention of the

1 Director of Administrative Services that an outstanding warrant has
2 not been presented for payment, the Director of Administrative
3 Services shall immediately issue a stop-payment order and notify the
4 State Treasurer, ~~by letter,~~ of the issuance of such order. After the
5 expiration of seven working days from the issuance of such order, if
6 in the meantime such outstanding warrant has not been presented for
7 payment, the Director of Administrative Services shall have authority
8 to issue a ~~duplicate replacement~~ thereof, ~~numbered the same as the~~
9 ~~original, with the word duplicate written or printed in red ink~~
10 ~~across the face thereof.~~ In an emergency, the Director of
11 Administrative Services may immediately issue such ~~duplicate~~
12 replacement warrant.

13 Sec. 3. Section 79-1145, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 79-1145 (1) For each fiscal year prior to fiscal year
16 2014-15, the aggregate amount of General Funds appropriated for
17 special education programs and support services pursuant to sections
18 79-1129, 79-1132, and 79-1144 shall not exceed the aggregate amount
19 of General Funds appropriated pursuant to such sections for the
20 previous fiscal year, ~~multiplied by one plus a rate of~~ increased by
21 five percent.

22 (2) For fiscal year 2014-15 and each fiscal year
23 thereafter, the aggregate amount of General Funds appropriated for
24 special education programs and support services pursuant to sections
25 79-1129, 79-1132, and 79-1144 shall not exceed the aggregate amount

1 of General Funds appropriated pursuant to such sections for the
2 previous fiscal year, increased by ten percent.

3 Sec. 4. Section 81-132, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

5 81-132 All departments, offices, and institutions of the
6 state government requesting appropriations shall file in the office
7 of the Director of Administrative Services the budget forms furnished
8 them by the director under the provisions of sections 81-1113 and
9 81-1113.01. The budget forms required by this section shall be filed
10 on or before September 15 of each even-numbered year., ~~except that~~
11 ~~in 2002, the budget administrator of the budget division of the~~
12 ~~Department of Administrative Services may extend the filing deadline~~
13 ~~for budget forms to a date no later than October 15, 2002.~~ The forms
14 shall show their total estimated requirements for the next biennium
15 for each unit of their organization and activity classified as to
16 object of expenditure. With such forms, each department, office,
17 institution, and expending agency shall file a report showing all
18 money received by such department, office, institution, or expending
19 agency together with the estimated receipts for the coming biennium.
20 Such estimates shall be accompanied by a statement in writing giving
21 facts and explanations of reasons for each item of increased
22 appropriation requested. The report submitted by the Department of
23 Health and Human Services shall include, but not be limited to, the
24 key goals, benchmarks, and progress reports required pursuant to
25 section 81-3133 and sections 12 to 14 of this act.

1 Sec. 5. Section 81-153, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-153 The materiel division shall have the power and
4 duty to:

5 (1) Purchase or contract for, in the name of the state,
6 the personal property required by the using agencies and the state;

7 (2) Promulgate, apply, and enforce standard
8 specifications established as provided in section 81-154;

9 (3) Sell and dispose of personal property that is not
10 needed by the state or its using agencies as provided in section
11 81-161.04 or initiate trade-ins when determined to be in the best
12 interest of the state;

13 (4) Determine the utility, quality, fitness, and
14 suitability of all personal property tendered or furnished;

15 (5) Make rules and regulations consistent with sections
16 81-145 to 81-171 and 81-1118 to 81-1118.06 to carry into effect the
17 provisions thereof. Such rules and regulations shall include
18 provisions for modifying and terminating purchase contracts and the
19 cost principles to be used in such modification or termination;

20 (6) Employ such clerical, technical, and other assistants
21 as may be necessary to properly administer such sections, fix their
22 compensation, and prescribe their duties in connection therewith,
23 subject to existing laws and appropriations;

24 (7) Allow the purchase of ~~items~~ personal property without
25 competitive bidding when the price has been established by the

1 federal General Services Administration or to allow the purchase of
2 ~~items~~ personal property by participation in a contract competitively
3 bid by another state or group of states, a group of states and any
4 political subdivision of any other state, or a cooperative purchasing
5 organization on behalf of a group of states. The division may also
6 give consideration to a sheltered workshop pursuant to section
7 48-1503 in making such purchases;

8 (8) Enter into any personal property lease agreement when
9 it appears to be in the best interest of the state; and

10 (9) Negotiate purchases and contracts when conditions
11 exist to defeat the purpose and principles of public competitive
12 bidding.

13 Sec. 6. Section 81-181, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 81-181 (1) Not later than ~~December~~ September 15 of each
16 even-numbered year, each agency shall submit to the Governor, in the
17 form prescribed by him or her, a report of its proposed building
18 renewal projects for the next ~~fiscal year~~. biennium. Such report
19 shall contain the information specified in section 81-177 and shall
20 constitute a request for the allocation of funds from the Building
21 Renewal Allocation Fund. Such report shall also constitute, as
22 applicable, a request for the allocation of funds from the State
23 Building Renewal Assessment Fund, University Building Renewal
24 Assessment Fund, or State College Building Renewal Assessment Fund.
25 The Governor shall, with the advice of the task force, allocate from

1 such funds the sum necessary for the accomplishment of projects
2 approved by him or her. Allocations from the Building Renewal
3 Allocation Fund shall be made in a manner that assures accomplishment
4 of Class I projects first, followed by accomplishment of Class II
5 projects, and then accomplishment of Class III projects, unless doing
6 so in a particular case would violate sound building renewal policies
7 and practices. The amount of such allocation shall not be transferred
8 to the agency but shall remain within, as applicable, the Building
9 Renewal Allocation Fund, State Building Renewal Assessment Fund,
10 University Building Renewal Assessment Fund, or State College
11 Building Renewal Assessment Fund subject to the control of the
12 Governor until disbursed consistent with the provisions of the
13 Deferred Building Renewal Act.

14 (2) The University of Nebraska and the state colleges may
15 include in their reports under subsection (1) of this section their
16 proposed building renovation projects that have received approval of
17 the Coordinating Commission for Postsecondary Education, if required
18 pursuant to section 85-1414, for the coming ~~fiscal year~~ biennium as
19 authorized by section 81-188.03 or 81-188.05, as applicable, which
20 shall constitute requests for allocation of funds for such proposed
21 projects from the University Building Renewal Assessment Fund or the
22 State College Building Renewal Assessment Fund, as applicable. The
23 Governor, with the advice of the task force, shall allocate from the
24 University Building Renewal Assessment Fund or the State College
25 Building Renewal Assessment Fund, as applicable, the sum necessary

1 for the accomplishment of the renovation projects approved by him or
2 her. Such allocations shall not be transferred to the University of
3 Nebraska or the state college or colleges making the request but
4 shall remain in the University Building Renewal Assessment Fund or
5 the State College Building Renewal Assessment Fund, as applicable,
6 subject to the control of the Governor until disbursed pursuant to
7 the Deferred Building Renewal Act.

8 Sec. 7. Section 81-1018, Revised Statutes Cumulative
9 Supplement, 2012, is amended to read:

10 81-1018 (1) The Legislature hereby declares that the
11 purpose and intent of this section are to take positive steps to
12 reduce the consumption of gasoline in this state and to make the most
13 efficient and economical use of the nation's resources and the
14 state's funds.

15 (2) After August 24, 1975, all state-owned vehicles that
16 are passenger cars purchased, leased, rented, or approved for
17 purchase, lease, or rent by the bureau shall be of the intermediate,
18 compact, or subcompact class. Not less than fifty percent of such
19 state-owned vehicles shall be of the compact or subcompact class
20 unless the costs to operate and maintain such vehicles are not to the
21 advantage of the state or such requirement fails to meet the intent
22 of sections 81-1008 to 81-1025. For purposes of this section, classes
23 shall be as defined by motor vehicle manufacturers.

24 Sec. 8. Section 81-1111.01, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 81-1111.01 For agencies with fewer than seven full-time
2 employees, preaudits shall be conducted by the accounting bureau or
3 by a state agency authorized by the Director of Administrative
4 Services to conduct its own preaudits. The Director of Administrative
5 Services may authorize departments and agencies that have seven or
6 more full-time employees to perform their own preaudits, subject to
7 monitoring by the accounting bureau. The preaudits shall be performed
8 in accordance with the provisions of subdivisions (3)(a) through (f)
9 of section 81-1111.

10 Sec. 9. Section 81-1113, Revised Statutes Cumulative
11 Supplement, 2012, is amended to read:

12 81-1113 The budget division shall prepare the executive
13 budget in accordance with the wishes and policies of the Governor.
14 The budget division shall have the following duties, powers, and
15 responsibilities:

16 (1) Shall prescribe the forms and procedures to be
17 employed by all departments and agencies of the state in compiling
18 and submitting their individual budget requests and shall set up a
19 budget calendar which shall provide for (a) the date, not later than
20 July 15 of each even-numbered year, for distribution of instructions,
21 (b) the date by which time requests for appropriations by each agency
22 shall be submitted, and (c) the period during which such public
23 hearings as the Governor may elect shall be held for each department
24 and agency. The budget request shall be submitted each even-numbered
25 year no later than the date provided in section 81-132, shall include

1 the intended receipts and expenditures by programs, subprograms, and
2 activities and such additional information as the administrator may
3 deem appropriate for each fiscal year, shall be made upon a biennial
4 basis, and shall include actual receipts and actual expenditures for
5 each fiscal year of the most recently completed biennium and the
6 first year of the current biennium and estimates for the second year
7 of the current biennium and each year of the next ensuing biennium;

8 (2) Shall work with each governmental department and
9 agency in developing performance standards for each program,
10 subprogram, and activity to measure and evaluate present as well as
11 projected levels of expenditures. The budget division shall also work
12 with ~~the Division of Children and Family Services of the~~ Department
13 of Health and Human Services to develop key goals, benchmarks, and
14 methods of quantification of progress required pursuant to section
15 81-3133 and sections 12 to 14 of this act;

16 (3) Shall, following passage of legislative
17 appropriations, be responsible for the administration of the approved
18 budget through budgetary allotments;

19 (4) Shall be responsible for a monthly budgetary report
20 for each department and agency showing comparisons between actual
21 expenditures and allotments, which report shall be subject to review
22 by the director and budget administrator; and

23 (5) Shall be responsible for the authorization of
24 employee positions. Such authorizations shall be based on the
25 following:

1 (a) A requirement that a sufficient budget program
2 appropriation and salary limitation exist to fully fund all
3 authorized positions;

4 (b) A requirement that permanent full-time positions
5 which have been vacant for ninety days or more be reviewed and
6 reauthorized prior to being filled. If requested by the budget
7 division, the personnel division of the Department of Administrative
8 Services shall review such vacant position to determine the proper
9 classification for the position;

10 (c) A requirement that authorized positions accurately
11 reflect legislative intent contained in legislative appropriation and
12 intent bills; and

13 (d) Other relevant criteria as determined by the budget
14 administrator.

15 Sec. 10. Section 81-1125.01, Revised Statutes Cumulative
16 Supplement, 2012, is amended to read:

17 81-1125.01 It shall be the duty of the Director of
18 Administrative Services to digest, prepare, and report to the
19 Governor, the Tax Commissioner, ~~and~~ the Clerk of the Legislature, and
20 the Legislative Fiscal Analyst, at least twenty days before the
21 commencement of each regular session of the Legislature:

22 (1) ~~A full and detailed statement of The Annual Budgetary~~
23 ~~Report showing~~ the condition of the treasury, and the amount of the
24 expenditures for the last fiscal year;

25 (2) ~~A full and detailed statement of the public debt, The~~

1 Comprehensive Annual Financial Report showing fully all liabilities
2 and resources of the state; and

3 (3) Such plans as he or she may deem expedient for (a)
4 the support of public credit, (b) lessening the public expenses, (c)
5 using the public money to the best advantage, (d) promoting frugality
6 and economy in public offices, and generally for the better
7 management and more perfect understanding of the fiscal affairs of
8 the state, and (e) securing uniformity and efficiency in the levying
9 and collecting of taxes, systematizing the work to be done by
10 officers having duties to perform under the revenue law.

11 The ~~report~~ reports submitted to the Clerk of the
12 Legislature shall be submitted electronically. Each member of the
13 Legislature shall receive an electronic copy of the ~~report~~ reports
14 required by this section by making a request for it to the director.

15 Sec. 11. Section 81-3110, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 81-3110 Sections 81-3110 to 81-3124 and sections 12 to 14
18 of this act shall be known and may be cited as the Health and Human
19 Services Act.

20 Sec. 12. (1) For the biennium ending June 30, 2017, and
21 the biennium ending June 30, 2019, the Division of Behavioral Health
22 of the Department of Health and Human Services shall, as part of the
23 appropriations request process pursuant to section 81-132, include a
24 strategic plan that identifies the main purpose or purposes of each
25 program, verifiable and auditable key goals that the division

1 believes are fair measures of its progress in meeting each program's
2 main purpose or purposes, and benchmarks for improving performance on
3 the key goals. The division shall also report whether the benchmarks
4 are being met and, if not, the expected timeframes for meeting them.
5 Such key goals and benchmarks shall be developed by the division with
6 the assistance of the budget division of the Department of
7 Administrative Services pursuant to subdivision (2) of section
8 81-1113.

9 (2) Not later than September 15, 2015, and not later than
10 September 15, 2017, the Division of Behavioral Health of the
11 Department of Health and Human Services shall report electronically
12 to the Health and Human Services Committee of the Legislature and the
13 Appropriations Committee of the Legislature on the progress towards
14 the key goals identified pursuant to this section that occurred in
15 the previous twelve months. The division shall annually appear at a
16 joint hearing of the two legislative committees and present the
17 report.

18 Sec. 13. (1) For the biennium ending June 30, 2017, and
19 the biennium ending June 30, 2019, the Division of Developmental
20 Disabilities of the Department of Health and Human Services shall, as
21 part of the appropriations request process pursuant to section
22 81-132, include a strategic plan that identifies the main purpose or
23 purposes of each program, verifiable and auditable key goals that the
24 division believes are fair measures of its progress in meeting each
25 program's main purpose or purposes, and benchmarks for improving

1 performance on the key goals. The division shall also report whether
2 the benchmarks are being met and, if not, the expected timeframes for
3 meeting them. Such key goals and benchmarks shall be developed by the
4 division with the assistance of the budget division of the Department
5 of Administrative Services pursuant to subdivision (2) of section
6 81-1113.

7 (2) Not later than September 15, 2015, and not later than
8 September 15, 2017, the Division of Developmental Disabilities of the
9 Department of Health and Human Services shall report electronically
10 to the Health and Human Services Committee of the Legislature and the
11 Appropriations Committee of the Legislature on the progress towards
12 the key goals identified pursuant to this section that occurred in
13 the previous twelve months. The division shall annually appear at a
14 joint hearing of the two legislative committees and present the
15 report.

16 Sec. 14. (1) For the biennium ending June 30, 2017, and
17 the biennium ending June 30, 2019, the Division of Medicaid and Long-
18 Term Care of the Department of Health and Human Services shall, as
19 part of the appropriations request process pursuant to section
20 81-132, include a strategic plan that identifies the main purpose or
21 purposes of each program, verifiable and auditable key goals that the
22 division believes are fair measures of its progress in meeting each
23 program's main purpose or purposes, and benchmarks for improving
24 performance on the key goals. The division shall also report whether
25 the benchmarks are being met and, if not, the expected timeframes for

1 meeting them. Such key goals and benchmarks shall be developed by the
2 division with the assistance of the budget division of the Department
3 of Administrative Services pursuant to subdivision (2) of section
4 81-1113.

5 (2) Not later than September 15, 2015, and not later than
6 September 15, 2017, the Division of Medicaid and Long-Term Care of
7 the Department of Health and Human Services shall report
8 electronically to the Health and Human Services Committee of the
9 Legislature and the Appropriations Committee of the Legislature on
10 the progress towards the key goals identified pursuant to this
11 section that occurred in the previous twelve months. The division
12 shall annually appear at a joint hearing of the two legislative
13 committees and present the report.

14 Sec. 15. Section 81-3133, Revised Statutes Supplement,
15 2013, is amended to read:

16 81-3133 (1)(a) On or before July 30, 2012, the Division
17 of Children and Family Services of the Department of Health and Human
18 Services shall report in writing its expenditures between January 1,
19 2012, and June 30, 2012, and the outcomes relating to such
20 expenditures to the Appropriations Committee of the Legislature and
21 the Health and Human Services Committee of the Legislature. Such
22 report shall identify any changes or movement of funds in excess of
23 two hundred fifty thousand dollars relating to child welfare between
24 subprograms within Budget Program 347 and Budget Program 354.

25 (b) Beginning with the third calendar quarter of 2012,

1 the division shall report electronically its expenditures for each
2 quarter and the outcomes relating to such expenditures within thirty
3 days after the end of the quarter to the Appropriations Committee of
4 the Legislature and the Health and Human Services Committee of the
5 Legislature. Such report shall identify any changes or movement of
6 funds in excess of two hundred fifty thousand dollars relating to
7 child welfare between subprograms within Budget Program 347 and
8 Budget Program 354.

9 (2)(a) For the biennium ending June 30, 2015, ~~and the~~
10 biennium ending June 30, 2017, and the biennium ending June 30, 2019,
11 the Division of Children and Family Services of the Department of
12 Health and Human Services shall, as part of the appropriations
13 request process pursuant to section 81-132, include a strategic plan
14 that identifies the main purpose or purposes of each program,
15 verifiable and auditable key goals that the division believes are
16 fair measures of its progress in meeting each program's main purpose
17 or purposes, and benchmarks for improving performance on the key
18 goals for the state as a whole and for each Department of Health and
19 Human Services service area designated pursuant to section 81-3116.
20 The division shall also report whether the benchmarks are being met
21 and, if not, the expected timeframes for meeting them. Such key goals
22 and benchmarks shall be developed by the Division of Children and
23 Family Services with the assistance of the budget division of the
24 Department of Administrative Services pursuant to subdivision (2) of
25 section 81-1113.

1 (b) Not later than September 15, 2013, ~~and~~ not later than
2 September 15, 2015, and not later than September 15, 2017, the
3 Division of Children and Family Services of the Department of Health
4 and Human Services shall report electronically to the Health and
5 Human Services Committee of the Legislature and the Appropriations
6 Committee of the Legislature on the progress towards the key goals
7 identified pursuant to this subsection that occurred in the previous
8 twelve months. The division shall annually appear at a joint hearing
9 of the two legislative committees and present the report.

10 Sec. 16. Original sections 77-2215, 79-1145, 81-153,
11 81-181, 81-1111.01, and 81-3110, Reissue Revised Statutes of
12 Nebraska, sections 73-507, 81-132, 81-1018, 81-1113, and 81-1125.01,
13 Revised Statutes Cumulative Supplement, 2012, and section 81-3133,
14 Revised Statutes Supplement, 2013, are repealed.

15 Sec. 17. Since an emergency exists, this act takes effect
16 when passed and approved according to law.